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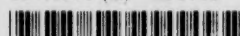
### **Torture and other cruel, inhuman or degrading treatment or punishment**

#### **Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report submitted by Mr. Theo van Boven, Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, in accordance with Assembly resolution 57/200 of 18 December 2002.

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\* A/58/50/Rev.1 and Corr.1.



**Report of the Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment, in accordance with Assembly resolution 57/200 of 18 December 2002**

*Summary*

In the present report, submitted pursuant to General Assembly resolution 57/200 and Commission on Human Rights resolution 2003/32, the Special Rapporteur refers to his main report to the fifty-ninth session of the Commission on Human Rights and its two addenda and to the activities he has been carrying out since the submission of the latter. He further addresses issues of special concern to him, in particular overall trends and developments with respect to questions falling within his mandate.

As a follow-up to the report submitted to the previous session of the General Assembly, the Special Rapporteur first draws the attention to a number of recent conclusions, recommendations and other findings issued by international and regional human rights monitoring bodies on the issue of the prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures. In a second part, he introduces his preliminary study on the situation of trade in and production of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment. The study was presented to the fifty-ninth session of the Commission on Human Rights. Thirdly, as a follow-up to the views on the issue of reparation for torture submitted by his predecessor in his report to the fifty-fifth session of the General Assembly, the Special Rapporteur gives stroke of a project of the non-governmental organization Redress Trust. This project examines domestic law and practice on the right to reparation for torture victims with a view to establishing to what extent torture victims have been able to exercise their right to reparation. Finally, the Special Rapporteur examines the question of the prevention of torture and other forms of ill-treatment in psychiatric institutions in the light of existing international norms, principles and guidelines. In particular, the Special Rapporteur pays attention to the legal safeguards related to the internment procedure, the treatment to be received by persons held in such institutions, the use of seclusion and other forms of restraint and the monitoring of psychiatric institutions.

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## I. Introduction

1. The present report is the fifth report submitted to the General Assembly by the Special Rapporteur of the Commission on Human Rights on the question of torture and other cruel, inhuman or degrading treatment or punishment, pursuant to General Assembly resolution 57/200 (para. 31) and Commission resolution 2003/32 (para. 34). It is the second report to be submitted by the present mandate-holder, Theo van Boven. As in the past, this report includes issues of special concern to the Special Rapporteur, in particular overall trends and developments with respect to issues falling within his mandate.

2. The Special Rapporteur would like to draw the attention of the General Assembly to his report to the fifty-ninth session of the Commission on Human Rights (E/CN.4/2003/68), in which he described his methods of work and recalled his general recommendations. Once again, he would strongly encourage States and other interested organizations to reflect upon these recommendations as useful tools to fight against torture and other forms of ill-treatment. The Special Rapporteur would like to refer to the activities he has been carrying out since the submission of the above-mentioned report.

3. With respect to fact-finding missions, the Special Rapporteur undertook, at the invitation of the Government of the Republic of Uzbekistan, a visit to that country from 24 November to 6 December 2002 during which he met various high officials and representatives of civil society organizations, as well as alleged torture victims and their relatives, and visited facilities. The Special Rapporteur appreciated that the Government enabled him to carry out this important mission (E/CN.4/2003/68/Add.2). He regarded his visit as a clear indication of increased cooperation between the Government and the United Nations in the field of human rights. The Special Rapporteur believes, on the basis of the numerous testimonies he received during the mission, that torture or similar ill-treatment is systematic. Accordingly, he has recommended that a number of measures be adopted with a view to putting an end to torture and ill-treatment in Uzbekistan.

4. The Special Rapporteur continued to hold consultations with representatives from Bolivia, China, Georgia, Nepal and Spain with a view to exploring the possibility of undertaking fact-finding visits to these countries, which have extended an invitation to the Special Rapporteur. He regrets that his earlier requests to visit Algeria, Egypt, India, Indonesia, Israel, the Russian Federation with respect to the Republic of Chechnya, and Tunisia have not yet led to results. By letter dated 6 June 2003, in accordance with resolution 2003/11 (para. 5) of the Commission on Human Rights, he inquired whether the Government of Turkmenistan would agree to a visit.

5. The Special Rapporteur would like to inform the General Assembly that, as reflected in the first addendum to his last report to the Commission on Human Rights,<sup>1</sup> from 1 December 2001 to 15 December 2002, he sent to 65 countries 109 letters containing allegations of individual cases of torture or general references to the phenomenon of torture. The Special Rapporteur also sent 68 letters reminding Governments of a number of cases that had been transmitted in previous years. In addition, the Special Rapporteur sent 294 urgent appeals to 82 Governments on behalf of individuals with regard to whom serious fears had been expressed that they might be subjected to torture and other forms of ill-treatment. A total of 72 Governments provided the Special Rapporteur with replies to his communications.

Since the submission of the report to the Commission on Human Rights, the Special Rapporteur has continued to transmit communications to the Governments and to receive responses from them.

6. The Special Rapporteur is pleased to inform the General Assembly that he was given the opportunity to strengthen his cooperation with the Inter-American Commission on Human Rights (IACHR) of the Organization of American States (OAS). Thanks to the assistance provided by the Association for the Prevention of Torture (APT),<sup>2</sup> he attended a part of a session of the IACHR from 19 to 25 February 2003. Both members of the IACHR and the Special Rapporteur stressed the importance of taking consistent approaches to the fight against and the prevention of torture and ill-treatment and committed themselves to foster the collaboration between the two mechanisms through an exchange of information and common strategies. Possible joint actions were discussed. The Special Rapporteur notes that discussions on ways and means to enhance the collaboration between the United Nations and the Inter-American human rights systems had already been initiated by the respective secretariats. During this visit the Special Rapporteur also met with the Deputy Secretary General of the OAS, representatives of OAS member States and members of non-governmental organizations from the region. Particular attention was paid to the issue of the follow-up to recommendations related to his predecessor's fact-finding missions in that region.<sup>3</sup>

7. With a view to strengthening the collaboration among United Nations mechanisms dealing with the question of torture, on 15 May 2003, the Special Rapporteur met again with members of the Committee against Torture and with the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture. At that occasion, issues of common interest were discussed, including the expected entry into force of the Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which establishes a framework that will allow visits by independent international and national bodies to places where persons are deprived of liberty.

8. On 25 June 2003, the Special Rapporteur participated in a round-table discussion organized by the World Organization against Torture (OMCT),<sup>4</sup> the Swiss section of Action by Christians for the Abolition of Torture (ACAT),<sup>5</sup> the Association for the Prevention of Torture and Amnesty International,<sup>6</sup> on the prohibition of torture in the context of anti-terrorism measures.

9. On 26 June 2003, on the occasion of the United Nations International Day in Support of Victims of Torture, the Special Rapporteur, together with the Committee against Torture, the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture and the Acting High Commissioner for Human Rights, issued a joint statement (see Annex I). On the same day, the Special Rapporteur participated in the launching of a handbook entitled "Combating torture: a manual for action" by Amnesty International. The handbook examines the prohibition of torture under international law, the safeguards to be granted to persons held in custody, the conditions of detention, the question of torture in other settings, and the problem of impunity. It also refers to standards and recommendations from United Nations and regional human rights bodies, as well as from other sources around the world, including Amnesty International's recommendations. Case studies highlight action undertaken to combat torture in various countries, and there are checklists of international standards and suggested further reading. The manual was produced as

part of Amnesty International's worldwide campaign against torture. The Special Rapporteur welcomes such an initiative and believes that this handbook is an invaluable tool for all those who want to understand and to be engaged in action against torture.

10. On 30 June 2003, the Special Rapporteur attended a Day of Discussion on HIV/AIDS and Human Rights, jointly organized by the OHCHR and the Joint United Nations Programme on HIV/AIDS (UNAIDS) in Geneva. The objective of this meeting, addressed to mandate-holders of special procedures of the Commission on Human Rights, was the development of a strategic approach for the integration of HIV/AIDS-related issues into their work. The Executive Director of UNAIDS and the Acting High Commissioner for Human Rights also participated in that meeting.

## **II. The prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures**

11. In his report submitted to the previous session of the General Assembly, the Special Rapporteur examined *inter alia* the question of the prohibition of torture and other forms of ill-treatment in the context of anti-terrorism measures.<sup>7</sup> The Special Rapporteur would like to take this opportunity to further draw the attention of the General Assembly to a number of recent conclusions, recommendations and other findings on the matter issued by international and regional human rights monitoring bodies.

12. In accordance with Commission on Human Rights resolution 2003/68, entitled "Protection of human rights and fundamental freedoms while countering terrorism", which "[e]ncourages States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission on Human Rights and the relevant comments and views of United Nations human rights treaty bodies" (para. 6), the Special Rapporteur would like to call upon States to reflect upon the general recommendations included in his last report to the Commission (see E/CN.4/2003/68, para. 26) as well as the more specific ones included in his last report to the General Assembly (see A/57/173, paras. 2-35) as useful considerations and tools in efforts to combat torture and other forms of ill-treatment. He notes that similar recommendations are echoed in the documents referred to below and hopes that future policy documents will continue to impress upon States their need to respect their international human rights obligations, in particular the prohibition of torture and other cruel, inhuman or degrading treatment or punishment as an absolute and non-derogable right.

13. It should in particular be noted that the Special Rapporteurs/Representatives, Experts and Chairpersons of the working groups of the special procedures of the United Nations Commission on Human Rights adopted on 27 June 2003 a joint statement in which they expressed alarm at the growing threats against human rights, threats that necessitate a renewed resolve to defend and promote these rights. In this statement, they drew attention, *inter alia*, to "the dangers inherent in the indiscriminate use of the term 'terrorism', and the resulting new categories of discrimination" and they recalled that "in accordance with the International Covenant on Civil and Political Rights, and pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, certain

rights are non-derogable and that any measures of derogation from other rights guaranteed by the Covenant must be made in strict conformity with the provisions of its Article 4".<sup>8</sup>

#### ***International human rights treaty monitoring bodies***

14. In the exercise of their monitoring activities, the Human Rights Committee and the Committee against Torture have recently addressed the issue of the respect of human rights provided for in international instruments in the context of existing or contemplated anti-terrorism legislation and other measures. While acknowledging the necessity to comply with security requirements, both Committees have reminded States Parties that the prohibition of torture is absolute and cannot be derogated from in any circumstances.<sup>9</sup>

15. In particular, the Special Rapporteur notes with interest that on several occasions, both Committees recalled the absolute nature of the principle of *non-refoulement* and that expulsion of those suspected of terrorism to other countries must be accompanied by an effective system to closely monitor their fate upon return, with a view to ensuring that they will be treated with respect for their human dignity. Furthermore, the Special Rapporteur would like to draw the attention of the General Assembly to the draft General Comment of the Human Rights Committee on Article 2 of the International Covenant on Civil and Political Rights on "The Nature of the General Legal Obligation Imposed on States Parties to the Covenant" which recalls that "(...) the article 2 obligation requiring that States Parties respect and ensure the Covenant rights for all persons in their territory and all persons under their control entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there is a real [and substantial] risk [i.e., a necessary and foreseeable consequence] [French: réel [et significatif]; S: real [y significativo]] of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant. The relevant judicial and administrative authorities should be made aware of the need to ensure compliance with the Covenant obligations in such matters."<sup>10</sup>

16. In the same context, the Special Rapporteur also notes with interest the statement on racial discrimination and measures adopted to combat terrorism, adopted by the Committee on the Elimination of Racial Discrimination on 8 March 2002.<sup>11</sup> In this statement, the Committee demanded that States and international organizations ensure that measures taken in the struggle against terrorism not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin. Further, the Committee expressed its intention to monitor, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination, the potentially discriminatory effects of legislation and practices in the framework of the fight against terrorism.

#### ***Organization of American States***

17. In compliance with its resolution of 12 December 2001 and with resolution 1906 (XXXII-O/02) of the General Assembly of the Organization of the American States (OAS) of 4 June 2002, both entitled "Terrorism and Human Rights", and in conformity with article 18 of its Statute, the Inter-American Commission on Human Rights (IACHR) prepared a report with a view to assisting States in adopting anti-terrorist laws and regulations respectful of their international human rights

obligations.<sup>12</sup> With respect to the right to humane treatment,<sup>13</sup> the Special Rapporteur shares the Commission's view according to which "[t]he interrogation of individuals suspected of having committed terrorist activities is (...) strictly limited by both international human rights and humanitarian law standards relative to the right to humane treatment and the absolute prohibition of torture."<sup>14</sup>

18. The IACHR report further highlights that "(...) while each case must be evaluated on its own circumstances, torture or other cruel, inhuman or degrading treatment could include more subtle treatments that have nevertheless been considered sufficiently cruel, such as exposure to excessive light or noise, administration of drugs in detention or psychiatric institutions, prolonged denial of sleep, food, insufficient hygiene, or medical assistance, total isolation and sensory deprivation."<sup>15</sup> In accordance with international jurisprudence, the Commission also restates that acts constituting other cruel, inhuman or degrading punishment or treatment are strictly prohibited and that prolonged incommunicado detention may also constitute a form of cruel, inhuman or degrading punishment or treatment.<sup>16</sup>

19. In June 2002, the OAS General Assembly adopted the Inter-American Convention against Terrorism, which in article 15 explicitly refers to the respect for human rights. In particular, its paragraph 3 reads as follows: "Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including the enjoyment of all rights and guarantees in conformity with the law of the state in the territory of which that person is present and applicable provisions of international law."

#### *Council of Europe*

20. The Special Rapporteur welcomes the guidelines elaborated by the Council of Europe's Group of Specialists on Human Rights and the Fight against Terrorism (DH-S-TER), which were adopted by the Committee of Ministers on 15 July 2002.<sup>17</sup>

21. In particular, the Special Rapporteur wishes to draw attention to Guideline IV on the absolute prohibition of torture, which reads as follows: "The use of torture or of inhuman or degrading treatment or punishment is absolutely prohibited, in all circumstances, and in particular during the arrest, questioning and detention of a person suspected of or convicted of terrorist activities, irrespective of the nature of the acts that the person is suspected of or for which he/she was convicted." Guideline XV (possible derogations) reiterates the absolute prohibition of torture and inhuman or degrading treatment or punishment. Detailed recommendations on arrest and police custody, regular supervision of pre-trial detention and conditions of detention are also included.

22. Finally, Guideline XIII (extradition) provides that "[e]xtradition may not be granted when there is serious reason to believe that: (i) the person whose extradition has been requested will be subjected to torture or to inhuman or degrading treatment or punishment". Further, the Special Rapporteur draws the attention to the adoption of the Protocol amending the European Convention on the Suppression of Terrorism by the Committee of Ministers on 7 November 2002, which was opened for signature on 15 May 2003. In particular, the text modifies the extradition refusal clause and introduces the non-obligation to extradite when the requested person is at risk of being exposed to torture.

### **III. Study on the situation of trade in and production of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment**

23. In accordance with paragraph 13 of Commission on Human Rights resolution 2002/38, the Special Rapporteur presented a preliminary study on the situation of trade in and production of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment, its origin, destination and forms, with a view to finding the best ways to prohibit such trade and production and to combat its proliferation to the fifty-ninth session of the Commission (see E/CN.4/2003/69).

24. In that report, the Special Rapporteur first drew the attention of the Commission to a number of references to such equipment in previous reports submitted by the Special Rapporteur. The legitimate use of some kinds of such equipment, in particular certain restraints (such as handcuffs) and kinetic and chemical devices, is recognized in a number of appropriate circumstances. It was noted that they may often constitute non-lethal alternatives to other security devices. It is nevertheless alleged that they have also been misused or intentionally used to inflict torture and other forms of ill-treatment. On the other hand, it is believed that other types of equipment are inherently cruel, inhuman or degrading and that their use would necessarily breach the prohibition of torture and other forms of ill-treatment.

25. The Special Rapporteur indicated that he did not intend to draw up a list of all equipments and instruments whose use is deemed to be inherently cruel, inhuman or degrading, as this would require more in-depth research. He did, however, express concern over the use of certain kinds of equipment regarding which the exact medical effects, including psychological ones, are reportedly still unknown. The absence of thorough, independent and impartial medical testing on short- and long-term effects poses a real problem in assessing whether a specific device is inherently cruel, inhuman or degrading. It was also noted that new equipment and technologies continue to be developed.

26. Regarding the trade in instruments specifically designed to inflict torture and other forms of ill-treatment, it was reported that this is a global trade involving countries of every region in the world. Information currently available regarding the companies involved is reportedly not comprehensive and is believed not to represent the true scale of the production and trade in such equipment, as very few Governments provide data in that respect. In particular, it was noted that a large number of countries do not require licences for the export, trans-shipment or brokerage of such products.

27. In his preliminary report, the Special Rapporteur noted a number of initiatives taken at the national and regional levels to prevent the trade in and production of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. In particular, he noted the recent proposal by the Commission of the European Communities for a Council regulation concerning trade in certain equipment and products that could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (see E/CN.4/2003/69, annex I). The Special Rapporteur welcomes such initiatives at regional and national levels. Nevertheless, only global measures would effectively prevent the trade in such equipment. It was also reported that the prohibition of the trade in such equipment is

often not effectively enforced owing to the absence of control mechanisms on military, security and police equipment and the absence of transparency. Trade controls are said to be evaded or legal loopholes exploited by companies that circumvent a ban on export by "brokering" such items while they are being sold by agents in third countries where such export is not regulated or prohibited. Official secrecy and a lack of accountability were said to benefit those who manufacture such items.

28. Finally, the Special Rapporteur also referred in his preliminary report to a set of recommendations made by Amnesty International. He stressed the importance of establishing monitoring mechanisms to control respect for trade and production regulations, be they national or international. The enactment of legal and other measures to stop the production and trade of equipment specifically designed to inflict torture and other forms of ill-treatment is part of the obligation of a general nature to prevent acts of torture (see article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). The Special Rapporteur reiterates that he would welcome further information from Governments and other interested parties on such initiatives with a view to proposing a set of best practices, and, eventually, a set of rules and regulations. He thus expects to be able to present a further report to the sixtieth session of the Commission.

#### IV. Reparation for victims of torture

29. As a follow-up to the views on the issue of reparation for torture victims presented by his predecessor in his report to the fifty-fifth session of the General Assembly (see A/55/290, paras. 24-33), the Special Rapporteur would like to draw the attention to an initiative of Redress Trust,<sup>18</sup> the *Audit Project: A Survey of the Law and Practice of Reparation for Torture in 30 Countries Worldwide*.<sup>19</sup> This project examines domestic law and practice on the right to reparation for torture victims with a view to establishing to what extent, if at all, torture victims have been able to exercise their right to reparation and, accordingly, States have implemented their obligations under international law. The collection and analysis of relevant law and practice is the result of a collaborative effort by human rights non-governmental organizations, legal and medical practitioners, academics and other interested persons, as well as relevant public authorities of the countries concerned.

30. The Special Rapporteur notes with concern that "[t]he overall findings [of this project] indicate that laws are inadequate and/or lacking in most of the countries under scrutiny and, even where present, rarely implemented. The absence of safeguards and the impunity afforded to perpetrators of torture contribute greatly to the prevalence of torture. Impunity is the result of a lack of political will and/or the failure to overcome severe institutional deficiencies to combat torture. The outcome is that torture remains unacknowledged, victims suffer in silence and there is little, if any, official support for survivors."<sup>20</sup>

31. The Special Rapporteur shares the views expressed in this report and previously expressed by his predecessor that the right to reparation for torture victims is clearly established in international law. Furthermore, he notes that renewed efforts are being made to underscore the need for reparational justice by means of a constructive review of the draft basic principles and guidelines on the right to a remedy and reparation for victims of violations of human rights and

humanitarian law. In this connection, the Special Rapporteur draws the attention to the report of the consultative meeting on draft basic principles and guidelines held on 30 September and 1 October 2002 (E/CN.4/2003/69) and to Commission on Human Rights resolution 2003/34, in which the Commission decided to continue its consideration of this question, as a matter of priority, at its sixtieth session.

32. As noted in the report released by Redress Trust, domestic courts are generally reluctant to use international law as a basis for their decisions in the absence of implementing legislation. Among other factors preventing victims from obtaining reparation, the report mentions the absence of a definition of the crime of torture in domestic legislation, the lack of criminal accountability of perpetrators, in particular owing to amnesty laws and other legal immunity legislation, and the lack of independence of investigatory bodies accessible by victims. It is also reported that most legislation does not encompass the notion of effective remedy. The Special Rapporteur would like to recall that adequate, effective and prompt reparation proportional to the gravity of the violation and the harm suffered<sup>21</sup> should include the following forms: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.<sup>22</sup>

33. Another factor identified in this report is the fact that in a number of countries, the burden of proof is placed on the defendant, thereby stacking the odds against torture victims and pre-empting proper investigation into allegation. This also provides an indirect encouragement for further torture. This is why the Special Rapporteur has constantly advocated that "[w]here allegations of torture or other forms of ill-treatment are raised by a defendant during trial, the burden of proof should shift to the prosecution to prove beyond reasonable doubt that the confession was not obtained by unlawful means, including torture and similar ill-treatment."<sup>23</sup> Time restrictions and the lack of standing for relatives of victims, as well as the lack of legislation expressly providing for the exercise of universal jurisdiction, are also identified as barriers of a legal nature against the implementation of an effective and enforceable right to reparation for victims of torture.

34. Perhaps more than other victims, torture survivors encounter the lack of political will on the part of public authorities to investigate and acknowledge torture practices inflicted by officials linked up with those same authorities and shielded by them from criminal responsibility. In addition, like other victims and persons who belong to the downtrodden and the destitute strata of national and international society, torture victims often lack access to justice and to effective recourse procedures; independent judicial and administrative agencies are unavailable and the authorities are simply incapable or unwilling to set up and maintain reparation schemes and programmes for the benefit of victims. In its report, Redress Trust makes a number of recommendations, from legal and institutional reforms to strengthening the awareness of the plight of torture victims. In particular, it calls for an improvement of the procedures for claiming reparation for torture by *inter alia* enabling victims to have a more active role in civil, criminal and administrative processes by streamlining procedures and removing bureaucratic impediments, as well as for the judiciary to develop a consistent jurisprudence on reparation.

35. As the Secretary-General stressed in his report entitled "Strengthening of the United Nations: an Agenda for Further Change",<sup>24</sup> human rights have to be supported first and foremost at the country level. Building strong human rights institutions at the domestic level and the emplacement or enhancement of national

protection systems, reflecting international norms, should be a principal objective. The audit project launched by Redress Trust responds to the need to enhance such national protection systems, of which reparational justice for torture victims is an essential ingredient, with the ultimate aim and perspective in mind of fully suppressing and preventing the crime of torture.

## **V. The prevention of torture and other forms of ill-treatment in psychiatric institutions**

36. The Special Rapporteur has been receiving over the years reports regarding the treatment of individuals in psychiatric institutions of various types, including on the situation of persons who have been interned in psychiatric institutions on an involuntary basis pursuant to civil or criminal proceedings. According to the information received, some people held in psychiatric institutions are kept in overcrowded spaces and unhygienic conditions with lack of access to adequate food and drink and in inappropriate temperatures, fastened to benches, beds, or wheelchairs, given inappropriate medical care, if at all, or subjected to aversive procedures, such as subjection to electric shocks, prolonged restraint, slaps and beatings, deprivation of senses, isolation and other forms of ill-treatment.

37. In this context, in addition to the absolute nature of the prohibition of torture and the right of all persons deprived of their liberty to be treated with dignity, the Special Rapporteur would like to draw the attention of the General Assembly to a number of initiatives aimed at codifying the norms and principles that should apply to persons interned in psychiatric institutions. In its resolution 2856 (XXVI) of 20 December 1971, the General Assembly adopted the Declaration on the Rights of Mentally Retarded Persons, and in its resolution 46/119 (1991) it also adopted the Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care (hereinafter, the "MI Principles"). Both the Declaration in its Point 1 and the MI Principles in Principle 1, paragraph 5, stress that persons with mental illness have the same rights as any other human being. Furthermore, the MI Principles clarify that the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment<sup>25</sup> shall apply to such persons (Principle 1, paragraph 5).

38. The Special Rapporteur would also like to refer to the World Health Organization Guidelines for the Promotion of Human Rights of Persons with Mental Disorders<sup>26</sup> which elaborate inter alia on the fundamental freedoms and basic rights of mentally ill persons (principle 1), the determination of mental illness (principle 4), the medical examination (principle 5), the standards of care (principle 8), the treatment to be received (principle 9), the medication (principle 10), the consent to treatment (principle 11), the rights and conditions in mental health facilities (principle 13), admission principles (principle 15), involuntary admission (principle 16), review body (principle 17), procedural safeguards (principle 18), access to information (principle 19), and complaints (principle 21).

### ***Legal safeguards related to the internment procedure***

39. With regard to the legal safeguards in relation to the internment of individuals in psychiatric institutions and the review of such a measure, the Special Rapporteur has received disturbing information according to which persons have been denied

the legal safeguards provided for in articles 9 of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights. In its General Comment on article 9 of the Covenant, the Human Rights Committee recalls that "Article 9 which deals with the right to liberty and security of persons has often been somewhat narrowly understood in reports by States parties, and they have therefore given incomplete information. The Committee points out that paragraph 1 is applicable to all deprivations of liberty, whether in criminal cases or in other cases such as, for example, mental illness (...). [I]n particular the important guarantee laid down in paragraph 4, i.e. the right to control by a court of the legality of the detention, applies to all persons deprived of their liberty by arrest or detention. Furthermore, States parties have in accordance with article 2 (3) also to ensure that an effective remedy is provided in other cases in which an individual claims to be deprived of his liberty in violation of the Covenant."<sup>27</sup>

40. In this context, the Special Rapporteur fully supports the view of the Human Rights Committee, which considers that a period of 14 days of detention for mental health reasons without any review by a court is incompatible with article 9 of the Covenant. State parties should ensure that measures depriving an individual of his or her liberty, including for mental health reasons, comply with article 9 of the Covenant. Under article 9, paragraph 4, a person detained for mental health reasons is entitled to initiate proceedings in order to review the lawfulness of his/her detention.<sup>28</sup>

41. Principle 18 of the MI Principles also provides for a series of legal guarantees to be granted to those persons held in psychiatric institutions, in particular, the right to a counsel, to services of an interpreter, access to the patient's record and to a fair hearing. These safeguards shall be read in conjunction with Principle 16, paragraph 1, according to which involuntary admission cannot be conducted without the authorization of a qualified mental health practitioner authorized by law for that purpose. According to the second paragraph of this Principle, involuntary admissions or retention shall be promptly and accurately communicated to a review body, which in accordance with Principle 17 (1) shall be "a judicial or other independent and impartial body established by domestic law and functioning in accordance with procedures laid down by domestic law. It shall, in formulating its decisions, have the assistance of one or more qualified and independent mental health practitioners and take their advice into account". Further, the review body shall issue a decision on the involuntary internment of a patient as soon as possible (principle 17, paragraph 2) and shall periodically review the cases of involuntary patients.

42. Finally, the Special Rapporteur notes with concern that he has also been receiving information on forced confinement of allegedly non-mentally ill persons in psychiatric establishments for other purposes than medical treatment. The respect for the legal safeguards referred to above is essential in cases in which such allegations are raised. In particular, the Special Rapporteur would like to remind States of Principle 4 of the MI Principles: "2. A determination of mental illness shall never be made on the basis of political, economic or social status, or membership of a cultural, racial or religious group, or any other reason not directly relevant to mental health status." The Special Rapporteur believes that the internment of mentally sane individuals in a psychiatric institution may amount to a form of ill-treatment, or even, in certain circumstances, to torture.

43. In that respect, the Special Rapporteur would like to mention his report on the fact-finding visit referred to above, during which he visited a psychiatric institution. During his visit, a number of cases were reported of involuntary internments, allegedly as a form of punishment. In particular, the Special Rapporteur received information on two human rights defenders who had been interned in psychiatric institutions, allegedly as a repression against their activities and who were said to be subjected to forced medication.<sup>29</sup>

***The treatment to be received by persons held in psychiatric institutions***

44. Concerning the treatment to be received by patients in mental health facilities, the Special Rapporteur would like to recall that they are unconditionally protected by article 7 of the International Covenant on Civil and Political Rights. As the Human Rights Committee has pointed out: "[i]t is appropriate to emphasize in this regard that article 7 protects, in particular (...) patients in (...) medical institutions".<sup>30</sup>

45. The Special Rapporteur would further like to refer to article 10 of the International Covenant on Civil and Political Rights, which guarantees that all individuals deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.<sup>31</sup> The protection from degrading treatment is also enshrined in Principle 8 of MI Principles, paragraph 2, which states that: "[e]very patient shall be protected from harm, including unjustified medication, abuse by other patients, staff or others or other acts causing mental distress or physical discomfort". Further, point 6 of the Declaration on the Rights of Mentally Retarded Persons states: "[t]he mentally retarded person has a right to protection from exploitation, abuse and degrading treatment".

46. Accordingly, certain basic necessities shall be granted to all persons held in such institutions in a view to respecting their human dignity. In that context the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment has developed detailed guidelines with respect to adequate food, heating and clothing as well as — in health establishments — appropriate medication.<sup>32</sup>

47. The Special Rapporteur would like to recall article 7 of the International Covenant on Civil and Political Rights, which clearly sets out that "no one shall be subjected without his free consent to medical or scientific experimentation" and article 8 which bans forced and compulsory labour. The Special Rapporteur would like to emphasize that certain practices such as irreversible treatments, including sterilization or psychosurgery, experimental treatment without informed consent or forced labour, which are expressly forbidden by the MI Principles,<sup>33</sup> shall be prohibited, as they may amount to a form of ill-treatment or even, in certain circumstances, to torture.

48. In response to the information received according to which non-mentally ill persons have been forcefully administered medication, the Special Rapporteur would like to refer to Principle 10 of the MI Principles, according to which "[m]edication shall meet the best health needs of the patient, shall be given to a patient only for therapeutic or diagnostic purposes and shall never be administered as a punishment or for the convenience of others (...)." In addition, according to the second part of the same principle, "[a]ll medication shall be prescribed by a mental health practitioner authorized by law and shall be recorded in the patient's records".

### ***The use of seclusion and other forms of restraint***

49. The Special Rapporteur is equally concerned by the use of seclusion, i.e., the solitary confinement of the patient as a form of control or medical treatment. The Special Rapporteur notes that according to the information he has received, seclusion of patients is a method that tends to be avoided by modern psychiatric practice. However, this form of restraint is still being used in many psychiatric institutions. The Special Rapporteur would like to recall that seclusion should never be used as a punishment or without adequate safeguards. In this respect, he would like to draw the attention of the General Assembly to Principle 11, paragraph 11, of the MI Principles, which states that: "[p]hysical restraint or involuntary seclusion of a patient shall not be employed except in accordance with the officially approved procedures of the mental health facility and *only when it is the only means available to prevent immediate or imminent harm to the patient or others*. It shall not be prolonged beyond the period which is strictly necessary for this purpose. (...) A patient who is restrained or secluded shall be kept *under humane conditions* and be *under the care and close and regular supervision of qualified members of the staff*." (emphasis added)

50. More generally, the Special Rapporteur would like to recall that the Basic Principles for the Treatment of Prisoners adopted and proclaimed by General Assembly resolution 45/111 of 14 December 1990, in particular its principle 7, reads as follows: "[e]fforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged".

51. While acknowledging that the restraint of violent or agitated inmates may be necessary in some circumstances, the Special Rapporteur would like to stress that this should always be conducted in accordance with the above-mentioned guiding principles. Furthermore, he notes the recommendation made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment that "[t]he restraint of patients should be the subject of a clearly-defined policy. That policy should make clear that initial attempts to restrain agitated or violent patients should, as far as possible, be non-physical (e.g. verbal instruction) and that where physical restraint is necessary, it should in principle be limited to manual control."<sup>34</sup>

### **Monitoring of psychiatric institutions**

52. The Special Rapporteur believes that regular monitoring of psychiatric institutions through in situ visits by independent bodies greatly contributes to guaranteeing that the living conditions and the treatment received in such establishments comply with international standards. With regard to the nature and functions of the review bodies, the Special Rapporteur wishes to refer to Principle 17 of the MI Principles.<sup>35</sup>

53. As far as international monitoring bodies are concerned, the Special Rapporteur notes that at the regional level the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment conducts regular visits to psychiatric institutions. Accordingly, it has closely examined the situation of individuals in psychiatric institutions and, in accordance with its findings, has drawn up a series of standards in that connection,<sup>36</sup> including with respect to involuntary placement in psychiatric institutions. The Special Rapporteur welcomes initiatives such as the creation of inspection systems for psychiatric

institutions similar to that of the CPT provided for by Recommendation 1235(1994) of the Council of Ministers of the Council of Europe.<sup>37</sup> It is the Special Rapporteur's opinion that, once it starts operating, the Sub-Committee to be created under the Optional Protocol to the Convention against Torture will also contribute to foster monitoring of that type of institution.

#### Notes

<sup>1</sup> E/CN.4/2003/68/Add.1.

<sup>2</sup> The APT is an independent non-governmental organization with consultative status with the Economic and Social Council of the United Nations working worldwide against torture and ill-treatment by focusing on the prevention of such abuses.

<sup>3</sup> Colombia (E/CN.4/1995/111), Chile (E/CN.4/1996/35/Add.2), Venezuela (E/CN.4/1997/7/Add.3), Mexico (E/CN.4/1998/38/Add.2) and Brazil (E/CN.4/2001/66/Add.2).

<sup>4</sup> The OMCT is an international coalition of NGOs fighting against torture, summary executions, forced disappearances and all other forms of cruel, inhuman and degrading treatment.

<sup>5</sup> ACAT is a non-governmental organization which campaigns on behalf of people who are tortured, detained in inhuman conditions, sentenced to death or "disappeared".

<sup>6</sup> Amnesty International is a worldwide non-governmental organization which campaigns for internationally recognized human rights. Its handbook "Combating torture: a manual for action" is available at: <http://web.amnesty.org/pages/stoptorture-manual-index-eng> (last checked on 27 June 2003).

<sup>7</sup> See A/57/173, paras. 2-35.

<sup>8</sup> United Nations Press Release, 30 June 2003, available at <http://www.unhchr.ch/huricane/huricane.nsf/view01/F1A1ADCFDCA24DEC1256D550031E966?opendocument> (last check on 30 June 2003). See Annex II.

<sup>9</sup> See inter alia CCPR/CO/77/EST (Estonia), para. 8; CCPR/CO/76/EGY (Egypt), para. 16; CCPR/CO/75/YEM (Yemen), para. 18; CCPR/CO/75/NZL (New Zealand), para. 11; CCPR/75/MDA (Moldova), para. 8; CCPR/CO/74/SWE (Sweden), para. 12; CCPR/CO/73/UK (United Kingdom), para. 6; CAT/C/XXIX/Misc.4 (Egypt), para. 4; CAT/C/CR/28/6 (Sweden), para. 6 (b).

<sup>10</sup> CCPR/C/74/CRP.4/Rev.2, para. 11.

<sup>11</sup> Committee on the Elimination of Racial Discrimination, Report to the 57th Session of the General Assembly, A/57/18, page 106.

<sup>12</sup> Report on Terrorism and Human Rights, OAS Doc. OEA/Ser.L/V/II.116, Doc. 5 rev. 1 corr. The report is available online at the following web-site address: [www.cidh.oas.org/Terrorism/Eng/toc.htm](http://www.cidh.oas.org/Terrorism/Eng/toc.htm) (17 June 2003).

<sup>13</sup> See Article 5, American Convention on Human Rights.

<sup>14</sup> See IACHR Report on Terrorism and Human Rights, section III C entitled "Right to Human Treatment and Terrorism", para. 210.

<sup>15</sup> Ibid., para. 212.

<sup>16</sup> Ibid., para. 213.

<sup>17</sup> The Special Rapporteur takes note that in its resolution 57/156 entitled "Cooperation between the United Nations and the Council of Europe" adopted without a vote on 16 December 2002, the United Nations General Assembly inter alia commended "the Council of Europe for its contribution to the implementation of Security Council resolution 1373 (2001) of 28 September 2001 and takes note in this context of the Council of Europe's Guidelines on Human Rights and

the Fight against Terrorism, adopted by its Committee of Ministers on 11 July 2002 and referred to in the addendum to the report of the Secretary-General on measures to eliminate international terrorism".

- <sup>18</sup> REDRESS is an internationally focused non-profit human rights/legal organization based in London, founded on Human Rights Day, 10 December 1992. REDRESS helps torture survivors obtain justice and reparation. Reparation (including rehabilitation and compensation) plays an important part in the rebuilding of the lives of those who have suffered torture.
- <sup>19</sup> The report is available online at the following web-site address: [www.redress.org/AuditProjectReport.html](http://www.redress.org/AuditProjectReport.html) (17 June 2003). The following countries have been identified in that study: Argentina, Bahrain, Brazil, Chile, China, Egypt, the Federal Republic of Yugoslavia, India, Indonesia, Iran, Israel, Japan, Kenya, Lebanon, Mexico, Morocco, Nepal, Nigeria, Peru, Philippines, Romania, the Russian Federation, Rwanda, South Africa, Sri Lanka, the Sudan, Switzerland, Turkey, United Kingdom, Uzbekistan, Zimbabwe. The countries were selected on the basis of the following criteria: geographical representation, representation of legal systems and the need for, and prospect of, law reform.
- <sup>20</sup> See the section entitled "Overall Findings of the Audit Project".
- <sup>21</sup> Basic principles and guidelines on the right to a remedy and reparation for victims of violation of international law and humanitarian law, Annex to the final report of the independent expert of the Commission on Human Rights on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, Cherif Bassiouni (E/CN.4/2000/62), para. 15.
- <sup>22</sup> Ibid., para. 21.
- <sup>23</sup> Recommendation (k), E/CN.4/2003/68, para. 26.
- <sup>24</sup> A/57/387, paras. 55 et seq.
- <sup>25</sup> Adopted by General Assembly resolution 43/173 of 9 December 1988.
- <sup>26</sup> Guidelines for the Promotion of Human Rights of Persons with Mental Disorders, Division of mental health and prevention of substance abuse, WHO, Geneva, WHO/MNH/MND/95.4.
- <sup>27</sup> Human Rights Committee, General Comment no. 8 on Article 9, adopted in 1982, paragraph 1. Included in Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.5, 26 April 2001.
- <sup>28</sup> See Concluding Observations of the Human Rights Committee: Estonia, 3 April 2003, CCPR/CO/77/EST, para. 10.
- <sup>29</sup> E/CN.4/2003/68/Add.2, annex, pp. 57-58.
- <sup>30</sup> Human Rights Committee, General Comment No. 20 on Article 7, adopted in 1992, paragraph 5. Included in Compilation of General Comments and General Recommendations adopted by Human Rights Treaty Bodies, UN Doc. HRI/GEN/1/Rev.5, 26 April 2001.
- <sup>31</sup> In its General Comment No. 21 on Article 10, the Human Rights Committee makes it clear that this provision applies "to any one deprived of liberty under the laws and authority of the State who is held in prisons, hospitals — particularly psychiatric hospitals" (para. 2).
- <sup>32</sup> See European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), "The CPT Standards", CPT/inf (2003) available at the following web-site address: [www.cpt.coe.int/en/docsstandards.htm](http://www.cpt.coe.int/en/docsstandards.htm).
- <sup>33</sup> Principle 11, in particular, paragraphs 12, 14 and 15.
- <sup>34</sup> CPT/inf (2003), Chapter VI, Involuntary placement in psychiatric establishments, para. 47, available at the following web-site address: [www.cpt.coe.int/en/docsstandards.htm](http://www.cpt.coe.int/en/docsstandards.htm).
- <sup>35</sup> Principle 17 "Review body. 1. The review body shall be a judicial or other independent and impartial body established by domestic law and functioning in accordance with procedures laid

down by domestic law. It shall, in formulating its decisions, have the assistance of one or more qualified and independent mental health practitioners and take their advice into account. 2. The review body's initial review, as required by paragraph 2 of Principle 16, of a decision to admit or retain a person as an involuntary patient shall take place as soon as possible after that decision and shall be conducted in accordance with simple and expeditious procedures as specified by domestic law. 3. The review body shall periodically review the cases of involuntary patients at reasonable intervals as specified by domestic law. 4. An involuntary patient may apply to the review body for release or voluntary status, at reasonable intervals as specified by domestic law. 5. At each review, the review body shall consider whether the criteria for involuntary admission set out in paragraph 1 of Principle 16 are still satisfied, and, if not, the patient shall be discharged as an involuntary patient. 6. If at any time the mental health practitioner responsible for the case is satisfied that the conditions for the retention of a person as an involuntary patient are no longer satisfied, he or she shall order the discharge of that person as such a patient. 7. A patient or his personal representative or any interested person shall have the right to appeal to a higher court against a decision that the patient be admitted to, or be retained in, a mental health facility.

<sup>16</sup> CPT/inf (2003).

<sup>17</sup> The terms of reference of the Working Party on Psychiatry and Human Rights (CDBI-PH) read as follows: "Under the authority of the Steering Committee on Bioethics (CDBI) and in the light of Committee of Ministers' Recommendation No. R (83)2 on legal protection of persons suffering from mental disorder placed as involuntary patients and of Parliamentary Assembly Recommendation 1235 (1994) on psychiatry and human rights, to draw up guidelines to be included in a new legal instrument of the Council of Europe. These guidelines should aim to ensure protection of the human rights and dignity of people suffering from mental disorder, especially those placed as involuntary patients, including their right to appropriate treatment." [http://www.coe.int/T/E/Legal\\_Affairs/Legal\\_co-operation/Bioethics\\_Activities/Psychiatry\\_and\\_human\\_rights/01TermsofRef\\_CDBI-PH.asp](http://www.coe.int/T/E/Legal_Affairs/Legal_co-operation/Bioethics_Activities/Psychiatry_and_human_rights/01TermsofRef_CDBI-PH.asp)

**Annex I****Joint statement, 26 June 2003**

The United Nations Committee against Torture, the Special Rapporteur of the Commission on Human Rights on the question of torture, the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture and the United Nations Deputy High Commissioner for Human Rights and Officer in charge of the Office of the High Commissioner for Human Rights make the following statement on the occasion of the United Nations International Day in Support of Victims of Torture.

In an international environment deeply affected by conflict and violence, we feel it is essential to reiterate that it is the obligation of States to prevent, prohibit, investigate and punish all acts of torture and other forms of ill-treatment. Freedom from torture and other cruel, inhuman or degrading treatment is an absolute right which cannot be derogated from under any circumstances, including in times of armed conflict and other situations of public emergency. We also take this opportunity to highlight the absolute character of the principle of non-refoulement, which provides that no one shall be deported to a State where he or she would be in danger of being subjected to torture.

We welcome the adoption by the United Nations General Assembly of the Optional Protocol to the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment, which allows for visits by independent experts to places where people are detained or otherwise deprived of their liberty, as an important tool for preventing torture, and we encourage States to ratify this new instrument and to set up national mechanisms allowing such visits to take place.

We recall that States' obligations with regard to the prohibition of torture also include the duty to provide adequate, effective and prompt reparation to torture victims, including facilities for their rehabilitation. We therefore continue to support those States, organizations and other organs of civil society that are committed to eradicating torture and securing redress for all torture victims.

On this International Day in Support of Victims of Torture, we call upon Governments, non-governmental organizations, private and public entities and individuals to express their solidarity with victims of torture and members of their families by contributing generously to the United Nations Voluntary Fund for Victims of Torture, so that the Fund can increase its financial assistance to about 200 projects run by non-governmental organizations all over the world to provide psychological, medical, social, economic, legal and other forms of humanitarian assistance to about 100,000 victims of torture and members of their families.

**Annex II****Joint statement by the Special Rapporteurs/Representatives, Experts and Chairpersons of the working groups of the special procedures of the United Nations Commission on Human Rights, 30 June 2003**

The special rapporteurs/representatives, experts and chairpersons of the working groups of the special procedures of the Commission on Human Rights, who met in Geneva from 23 to 27 June 2003, expressed alarm at the growing threats against human rights, threats that necessitate a renewed resolve to defend and promote these rights. They also noted the impact of this environment on the effectiveness and independence of special procedures.

Although they share in the unequivocal condemnation of terrorism, they voiced profound concern at the multiplication of policies, legislations and practices increasingly being adopted by many countries in the name of the fight against terrorism, which affect negatively the enjoyment of virtually all human rights — civil, cultural, economic, political and social.

They draw attention to the dangers inherent in the indiscriminate use of the term “terrorism”, and the resulting new categories of discrimination. They recall that, in accordance with the International Covenant on Civil and Political Rights, and pursuant to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, certain rights are non-derogable and that any measures of derogation from the other rights guaranteed by the Covenant must be made in strict conformity with the provisions of its article 4.

The special rapporteurs/representatives, experts and chairpersons of the working groups of the special procedures of the Commission and the chairpersons of human rights treaty bodies deplore the fact that, under the pretext of combating terrorism, human rights defenders are threatened and vulnerable groups are targeted and discriminated against on the basis of origin and socio-economic status, in particular migrants, refugees and asylum-seekers, indigenous peoples and people fighting for their land rights or against the negative effects of economic globalization policies.

They strongly affirm that any measures taken by States to combat terrorism must be in accordance with their obligations under the international human rights instruments.

They are determined, in the framework of their respective mandates, to monitor and investigate developments in this area and call upon all those committed to respect for human rights, including the United Nations, to be vigilant to prevent any abuse of counter-terrorism measures.

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**Fifty-eighth session**

Item 119 (b) of the preliminary list\*

**Human rights questions: human rights questions, including  
alternative approaches for improving the effective enjoyment  
of human rights and fundamental freedoms**

**Protection of migrants****Report of the Secretary-General***Executive summary*

Pursuant to General Assembly resolution 57/218 of 18 December 2002, entitled "Protection of migrants", the Secretary-General was requested to submit to the Assembly at its fifty-eighth session a report on the implementation of that resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

In resolution 57/218, the General Assembly requested all Member States to effectively promote and protect the human rights of all migrants. The Assembly also requested all States to firmly prosecute cases of violations of labour law with regard to the conditions of work of migrant workers and called upon them to review and, where necessary, revise immigration policies with a view to eliminating all discriminatory practices against migrants. Member States were encouraged to enact domestic criminal legislation to combat the international trafficking of migrants; and States were encouraged to consider participating in international and regional dialogues on migration and invited to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law. All Governments were encouraged to remove obstacles that might prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries.

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\* A/58/50 Rev.1 and Corr.1.



In resolution 57/218, the General Assembly also reiterated the need for all States parties to applicable international human rights instruments to protect fully the universally recognized human rights of migrants, especially women and children, regardless of their legal status, and to treat them humanely, in particular with regard to assistance and protection. All States were urged to adopt effective measures to put an end to the arbitrary arrest and detention of migrants, and called upon to protect migrant children, in particular unaccompanied migrant children, ensuring that the best interests of the children and the importance of reuniting them with their parents were the paramount consideration.

The present report contains a summary of communications received from 11 States: Croatia, Greece, Guatemala, Finland, Kuwait, Lebanon, Mexico, Nicaragua, Panama, Thailand and Togo. The communications provide information on legal provisions put in place by States to protect migrants, as well as programmes, campaigns and policies designed to this effect.

In this report, the Secretary-General welcomes the important development represented by the entry into force, on 1 July 2003, of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which as of 15 June 2003 had been ratified by 22 States. In his recommendations, the Secretary-General urges Member States to ratify the Convention as well as the United Nations Convention against Transnational Organized Crime and the Protocols thereto on trafficking in persons and smuggling of immigrants. The Secretary-General further welcomes and encourages increased dialogue and cooperation between the United Nations and other bodies and organizations in the field of migration.

The Secretary-General also reports on the activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants, and her main activities, concerns and recommendations; and encourages her to continue working for the protection of the human rights of migrants, in particular women and children, and to continue her programme of visits and to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.

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## I. Introduction

1. In its resolution 57/218 of 18 December 2002, entitled "Protection of migrants", the General Assembly welcomed the renewed commitment made in the United Nations Millennium Declaration<sup>1</sup> to take measures to ensure respect for and protection of the human rights of migrants, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies. The Assembly strongly condemned all forms of racial discrimination and xenophobia with regard to access to employment, vocational training, housing, schooling, health services and social services, as well as services intended for use by the public, and welcomed the active role played by governmental and non-governmental organizations in combating racism and assisting individual victims of racist acts. The Assembly also welcomed immigration programmes that allowed migrants to integrate fully into the host countries and facilitated family reunification.

2. In the same resolution, the General Assembly requested all Member States to effectively promote and protect the human rights of all migrants requested all States to prosecute firmly cases of violation of labour law with regard to the conditions of work of migrant workers and called upon them to review and, where necessary, revise immigration policies with a view to eliminating all discriminatory practices against migrants, and encouraged Member States to enact domestic criminal legislation to combat the international trafficking of migrants. The Assembly encouraged States to consider participating in international and regional dialogues on migration and invited them to consider negotiating bilateral and regional agreements on migrant workers in the framework of applicable human rights law. All Governments were encouraged to remove obstacles that might prevent the safe, unrestricted and expeditious transfer of earnings, assets and pensions of migrants to their country of origin or to any other countries.

3. In resolution 57/218, the General Assembly reaffirmed the responsibility of Governments to safeguard and protect the rights of migrants against illegal or violent acts, in particular acts of racial discrimination and crimes perpetrated with racist or xenophobic motivation, and reaffirmed emphatically the duty of States parties to the Vienna Convention on Consular Relations of 1963<sup>2</sup> to ensure full respect for and observance of the Convention.

4. In the same resolution, the General Assembly reiterated the need for all States parties to the applicable international human rights instruments to protect fully the universally recognized human rights of migrants, especially women and children, regardless of their legal status, and to treat them humanely, in particular with regard to assistance and protection; urged all States to adopt effective measures to put an end to the arbitrary arrest and detention of migrants; and called upon all States to protect the human rights of migrant children, in particular unaccompanied migrant children ensuring that the best interests of the children and the importance of reuniting them with their parents were the paramount consideration.

5. In resolution 57/218, the General Assembly requested the Secretary-General to submit to the Assembly at its fifty-eighth session a report on the implementation of that resolution under the sub-item entitled "Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms".

6. Pursuant to General Assembly resolution 57/128, the Office of the United Nations High Commissioner for Human Rights, on 5 February 2003 transmitted a note verbale to Governments, on behalf of the Secretary-General, requesting information on their implementation of that resolution. A similar communication had been issued on 30 April 2002 with regard to the report of the Secretary-General on the protection of migrants (A/57/134) submitted to the Assembly at its fifty-seventh session pursuant to Assembly resolution 56/170 of 19 December 2001. Some belated responses to the request of the Secretary-General contained in that report are included in the present report.

## II. Reports on the status of implementation

7. The Permanent Mission of **Kuwait** to the United Nations in its communication dated 13 June 2002, reported that there were approximately 673,227 migrant workers in Kuwait as of April 2002, representing over 130 nationalities. The Kuwaiti Constitution and the laws in force guaranteed the protection and welfare of foreign workers without discrimination. In addition, the rights of workers were protected under labour laws, human rights conventions and international labour conventions. Other national legislation, including the Penal Code, endeavoured to strengthen the rules and guarantees for the protection of workers against violence and ill-treatment. The right to take legal action was guaranteed to migrants under the terms of article 166 of the Constitution.

8. According to article 18 of the Labour Code, it was prohibited to employ any boy or girl under age 14. The Code further established that minors over age 14 and under age 18 could not be employed in hazardous work or in occupations that were damaging to their health. Article 21 prohibited the employment of minors in night work, and article 22 stipulated a maximum working day of six hours for minors, subject to the condition that they did not work for more than four hours without a break. Articles 23 and 24 of the Labour Code prohibited the employment of women in work or occupations that were hazardous or damaging to their health, or in night work other than in national medical centres and other designated institutions. Article 27 of the Labour Code provided that men and women were entitled to equal pay for equal work.

9. The Bureau for Domestic Workers had been established to oversee agencies involved in the recruitment of domestic workers. Specific conditions had been imposed on the owners of recruitment agencies, including the provision that they had to pay a sum of 5,000 Kuwaiti dinars to the Ministry as a deposit that a worker could use to return to his or her country. Recruitment agencies were also requested to draw up a contract between domestic workers and the employer, stipulating minimum rights and guarantees for both parties. Civil courts had competence for hearing disputes arising from the application of a domestic worker's contract, in respect of which the statute of limitations expired only 15 years from the date of termination of the employment. All suits filed by workers under the Labour Code were exempt from court fees and were heard by the courts as a matter of priority. The Bureau for Domestic Workers further took preventive measures against domestic workers' sponsors who had infringed the law, consisting of prohibiting them from recruiting domestic workers or from issuing worker residence permits under their guarantee. The competent authorities were engaged in drafting a private sector labour code, taking into account comments and recommendations made by

the committee of experts on the application of international labour conventions and recommendations.

10. The Government of **Togo**, in its communication dated 1 July 2002, reported that the Constitution of 14 October 1992 incorporated, through its article 50, all international human rights instruments into the national legislation. The Commission of Legislative Harmonization ensured the conformity of internal laws, including those referring to migrants, with the Constitution. Measures for the protection of migrants had been established by the Ministry of the Interior, Security and Decentralization. The application of the immigration law was ensured by the technical services of the General Direction of the National Police. The Police had the competence to deliver residence permit to foreigners. Foreigners could obtain the certificate of Togolese nationality by naturalization. Migrants enjoyed the same rights as nationals without discrimination. Togo had ratified International Labour Organization (ILO) Convention No. 143 (Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers)<sup>3</sup>. Article 23 of the Constitution provided that aliens could be expelled or extradited only upon the decision of a competent judicial authority.

11. The Government of **Thailand**, in its communication dated 15 July 2002, reported that there were approximately 1.5 million migrant workers comprising many irregular or undocumented workers, although the unofficial figures estimated the number of migrants to be between 1 million and 6 million. There were public concerns about the issues arising from the heavy influx of irregular migrant workers. Irregular migrants entering the country in violation of the Immigration Act of 1979 were to be arrested and prosecuted according to Thai national law. In the process of return, the Government collaborated closely with countries of origin to ensure respect of migrants' rights. Thailand and Myanmar were negotiating a Memorandum of Understanding to facilitate the process of entry and return of irregular migrants.

12. The Government was drafting a child protection act which would ensure equal protection to migrant children and would set a minimum standard of care to which children were entitled. According to the Department of Public Welfare, the majority of street children were migrant children from neighbouring countries who, if returned to their countries, would not go back to their families but rather seek ways to once again become migrants. The Thai Government was undertaking efforts, in cooperation with neighbouring countries, to return children directly to the care and supervision of their families and communities. Before their return, children were looked after at shelter homes in Thailand. The conditions of such centres were to be improved so that they could provide appropriate recreational and educational facilities. The Ministry of Education had initiated a project, expanded to include migrant children in 2002, to provide children with education opportunities. Migrant children enjoyed the same protection from forced labour as Thai children.

13. Thailand has signed the United Nations Convention against Transnational Organized Crime and the Protocols thereto on trafficking in persons and smuggling of migrants.<sup>4</sup> The International Law Enforcement Agency (ILEA) was established in Bangkok in 1999 to serve as a regional training centre for law enforcement, judicial and other officers and facilitate information-sharing on the suppression of transnational crime. Thailand, Sweden and the Philippines had formed a core group to draft a plan of action to counter trafficking in women and children in Asia and Europe. The Asian Regional Initiative against Trafficking in Women and Children

(ARIAT) was a forum in which more than 32 member countries and some non-governmental organizations participated and that had developed an action plan to combat trafficking of women and children. Thailand had set up the National Secretariat on Trafficking in Women and Children in the Mekong subregion to coordinate work with countries in the subregion. As a member of the Association of Southeast Asian Nations (ASEAN), Thailand participated in efforts to develop and implement an ASEAN plan of action to combat trafficking in women. The Thailand National Committee on Trafficking in Women and Children had developed the Memorandum of Understanding on Common Guidelines for Concerned Agencies to be Applied in the Case of Women and Children as Victims of Human Trafficking, with the objective of establishing common understanding, standard practice and guidelines among all agencies involved in trafficking cases. According to the Memorandum of Understanding, victims were not defined as offenders of the law and they were entitled to assistance and rights such as access to legal counsel, shelter, medical services and contact with non-governmental organizations and families. Thailand and Cambodia were in the process of finalizing a draft Memorandum of Understanding on cross-border cooperation on trafficking in women and children. It was expected that similar Memorandums of Understanding would be concluded with other countries in the region. Thailand was in the process of finalizing the National Plan on the Prevention and Solution of the Cross-country Border Trafficking in Children and Women (2001-2010). Domestic legislation had been amended to ensure harsh penalties for those involved in child prostitution and to codify crimes such as sexual harassment, sale of children as beggars, forced labour and labour exploitation.

14. In August 2001, the Ministry of Labour and Social Welfare was mandated to register irregular migrants who had not violated the Immigration Act and to provide them with work permits. An Administrative Commission on Irregular Migrant Workers was set up to lay down short- and long-term policies to solve the problem of irregular migration. Studies and analysis were to be undertaken on occupation and employment structures to ensure that the employment of irregular migrants filled in the vacancies of the Thai labour market.

15. When a worker was registered and employed, Thai legislation provided protection in terms of employment, salary and social services and employers were required to accord to migrant workers the same protection provided by law to Thai workers. An irregular migrant who had registered with the Ministry of Labour was entitled to have access to the public health service programme and health care without any discrimination.

16. The Government of **Nicaragua**, in its communication dated 19 September 2002, reported that the Constitution of the Republic of Nicaragua prohibited discrimination on the basis of, inter alia, nationality. The law provided for freedom of circulation for nationals and foreigners, provided that they had valid travel documents. Nicaragua had signed an agreement for the free circulation of persons with Guatemala, El Salvador and Honduras (Agreement CA-4). Within the country, foreigners could move freely and change their residence, upon informing the General Directorate of Migration (Dirección General de Migración y Extranjería (DGME)).

17. The General Directorate had undertaken a review of the legislative framework for the protection of migrants with a view to elaborating a draft law gathering all

relevant provisions, and also formulated draft legislation in the field of smuggling in accordance with the United National Convention against Transnational Organized Crime, to which Nicaragua was a State party. A migrants holding centre was created in 1997. Irregular migrants were held in the centre where measures to protect their rights were taken. They included: notifying their consular representatives; bringing the case before the competent judicial authority; informing the ombudsman; arranging for the migrant's return to the country of origin, as adequate, in cooperation with the International Organization for Migration (IOM); and facilitating communication between migrants and their families. Seminars and training for the officials of the General Directorate had been undertaken. The General Directorate provided humanitarian assistance to refugees and asylum-seekers with the support of organizations of the civil society. However funds available were not sufficient. Measures to stop trafficking, including travel document requirements for minors, were also reported. The Department of Control of Aliens had been created to combat smuggling.

18. The General Directorate participated in regional forums, such as the Regional Conference on Migration and the Central American Commission of Directors of Migration, in order to promote dialogue on joint procedures, measures and activities for the protection of the human rights of migrants.

19. The Government of **Croatia**, in its communications of 15 July 2002 and 13 May 2003, reported that, according to article 26 of the Constitution of the Republic of Croatia, all citizens and aliens shall be equal before courts, government bodies and other bodies vested with public powers. As a successor State of the former Socialist Federal Republic of Yugoslavia, the republic of Croatia had acceded to many relevant international instruments in the field of human rights, including the 1951 Convention relating to the Status of Refugees<sup>5</sup> and the 1967 Protocol thereto,<sup>6</sup> and the 1954 Convention relating to the Status of Stateless Persons.<sup>7</sup> Chapter XIII of the Criminal Code of the Republic of Croatia, entitled "Criminal offences against values protected by international law", sets out several criminal offences, such as "Racial and other discrimination", "Establishment of slavery and transport of slaves" and "International prostitution and illegal transfer of persons across the State border". "Trafficking in persons" was in the process of becoming a criminal offence. In accordance with article 36 of the Vienna Convention on Consular Relations of 1963, a mechanism had been established by the police department to enable detainees to communicate without interference with their consular representatives.

20. In May 2002, the Croatian Government set up the National Committee to Combat Trafficking in People. A national plan was under preparation, which would allow for greater coordination among competent ministries in the fight against trafficking and irregular migration. The Law on the Movement and Stay of Aliens and the Rules on the Issuing of Documents and Visas to Aliens contained the most relevant provisions vis-à-vis migrants. According to the law, minors shall have the right to stay with the parent who has been granted permanent residence and an alien may be granted an extended stay for the purpose of family reunion.

21. A new aliens act and asylum law were under legal procedure. These laws, whose draft contained detailed regulations concerning family reunification, integration into society, protection of vulnerable groups, as well as conditions of, and limitations on, detention of persons in the process of being deported and work

conditions, were to replace the Law on the Movement and Stay of Aliens and the 1992 Aliens Employment Act.

22. Croatia was part of regional initiatives for the protection of the rights of migrants, including the Budapest Process, the Adriatic-Ionian Initiative, the Central European Initiative, the Regional Task Force and the Stability Pact for Southeastern Europe. Under the Third Working Table of the Stability Pact for Southeastern Europe, the Working Group for the Suppression of Trafficking in Persons, in particular Women and Children, has been set up. The Office of the United Nations High Commissioner for Refugees (UNHCR), IOM and the International Centre for Migration Policy Development (ICMPD) had assisted in the organizations of numerous seminars in the past several years to train civil servants in human rights. Croatia, as a member State of the Council of Europe, participated in the work of the Committee for Migration and followed the migration policy and regulations on the legal status and other rights of migrants. It had established social indicators of the integration of migrants in the host society and common definitions with which to uniformly follow and analyse the migration movements in member States.

23. The Government of **Guatemala**, in its communication dated 16 May 2003, reported that Guatemala was a country of origin, transit and destination of migrants. The matter of migration was regulated by decree law 95/98 and by relevant international conventions, including the main human rights treaties and ILO Conventions Nos. 97 (Convention concerning Migration for Employment (Revised 1949)),<sup>8</sup> 143 and 105 (Convention concerning the Abolition of Forced Labour),<sup>9</sup> as well as regional instruments. In the application of these laws, Guatemala promoted respect for the human rights of migrants, with special attention to women and children.

24. The Government strived to raise public awareness about the phenomenon of migration and to combat negative attitudes against migrants. Great importance was given to mechanisms of cooperation and coordination with relevant consulates in order to strengthen the protection of, and assistance to, migrants. Priority was also given the issues arising from the concentration of migrants in border zones and to the speedy provision of documentation to migrants. Joint activities were undertaken with, inter alia, the ombudsman offices of El Salvador, Honduras and Nicaragua, some Guatemalan consulates in Mexico and the United States of America, the Inter-American Institute of Human Rights and the National Human Rights Commission of Mexico. In the framework of the Central American Commission of Directors of Migration, the CA-4 agreement had been established to facilitate the circulation of people in the region. El Salvador, Honduras, Guatemala and Nicaragua participated in this agreement. The Regional Conference on Migration also represented a forum for dialogue on migration issues. In the framework of the Puebla Plan Panama, there was a project for the establishment of an informatics system on migration statistics.

25. With regard to labour issues, priority was given to measures to ensure respect of migrants' labour rights and to the provision of training to migrant workers on their rights and obligations. Also, a better control of the flux of migrants across the borders of Tecún Umán and El Carmen, San Marcos, had been implemented. Capacity-building for the development of labour-generating projects, with the participation of migrants, was implemented.

26. IOM had assisted Guatemala in the establishment of an Office to assist migrants expelled from Mexico on the border of Tecún Umán. There were no

statistics or studies on the scope of the phenomenon of migration in Guatemala. Some non-governmental organizations and the Church had gathered some data and undertaken monitoring activities.

27. Migrants entering irregularly the territory of Guatemala from Mexico were taken by bus to the border with their country of origin by the General Directorate of Migration (Dirección General de Migración) with the support of the Embassy of the United States of America, according to an agreement signed on 13 June 2002.

28. Guatemala had ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families<sup>10</sup> and established an Ad hoc Committee composed of representatives of the Ministry of Labour and the Department of Consular Affairs of the Ministry of Foreign Affairs to draft a plan of action for the implementation of the Convention. The Committee would meet twice a year. During its first meeting, the Ad hoc Committee established a Subgroup on labour issues. A document having been submitted to the Mexican authorities on problems faced by Guatemalan agricultural migrant workers, the Government of Mexico committed to providing a follow-up to the report. Mexico also committed to providing medical attention to Guatemalan migrant workers. The crime of racial discrimination was included in the Penal Code. Mechanisms of coordination between Guatemalan and Mexican authorities were established as part of the Plan for Security along the Border between Mexico and Guatemala. Also, initiatives to promote coordination between embassies and consulates and the communities of Guatemalan migrants had been undertaken. The resettlement of migrant workers to third countries was promoted; a pilot project was launched to resettle Guatemalan agricultural workers in Belize. Assistance, including legal, medical and social aid, was regularly provided to migrants and there was follow-up to complaints by undocumented migrants regarding incidents that had occurred in the context of detention, deportation or expulsion, with the involvement of the Office of the Ombudsman. Radio in border zones broadcasted information, in the native languages of the majority of migrants, on their rights and obligations.

29. The Government of **Lebanon**, in its communication dated 19 May 2003, indicated that Lebanon had consistently complied with the terms of international treaties relating to the protection of the human rights of migrants. In March 2002, Lebanon concluded an agreement with the International Centre for Migration Policy Development (ICMPD) to help irregular immigrants return voluntarily to their countries, and in May 2002 it took part in a conference organized by the Centre on the same subject. Lebanon had agreed to allow the IOM to open an office in Beirut in order to assist with the voluntary return of irregular immigrants to their countries. Lebanon had signed a Memorandum of Understanding with the regional office of UNHCR in Beirut. The General Directorate for Security was holding training sessions for its employees in order to inform them about new legal and work-related developments in this field.

30. The Government of **Finland**, in its communications dated 11 July 2002 and 21 May 2003, indicated that the Finnish Alien Act and international agreements by which Finland is bound regulated the entry, residence, employment and departure from Finland of aliens. At the end of 2002, the estimated unemployment rate among immigrants had fallen 2 percentage points from 2001. This had been achieved by enhanced guidance to migrants, workplace integration training, and vocational training including Finnish language teaching in cooperation with employers.

31. On 1 September 2001, the Ombudsman for Minorities was established. The Ministry of Labour had been implementing the Government Action Plan to Combat Ethnic Discrimination and Racism in cooperation with other ministries. The impact of the Action Plan in 2001 had been more evident in those ministries with no competence in immigration affairs. However, ministries with a few exceptions, had failed to hire immigrant employees.

32. In the communication received in 2001, the Government reported that the new school legislation aimed at establishing measures for monitoring the implementation of compulsory education and to prevent dropping out of school. Migrants' work experience and education acquired in their home countries were to be utilized more efficiently and, if needed, reinforced with further education. The Action Plan had further requested that the authorities ensured that there were no discriminatory practices in the administrative services. The new Government's programme stated that a complete reform of the Alien Act would be undertaken in full respect for international human rights, the principles of good governance and the rule of law.

33. The experience of migrants in facing racism and discrimination in Finland, and its impact on their mental well-being, were studied in 2001. The research results showed that experiences in facing racism and discrimination were fairly common among immigrants both at work and in other areas of everyday life. Twenty-eight per cent of migrants who participated in the study said that they had experienced insults, threats, crimes against property or some other racist act in the previous 12 months. Half of these acts had been insults and 26 per cent threats. Most migrants had not reported the act or the discriminatory behaviour to the police.

34. A first study on ethnic discrimination at work was undertaken in 2000. According to the study, 83.7 per cent of those interviewed (including migrants and ethnic minorities) felt that the main reason for their not having found a job was the high rate of unemployment and tough competition. Over three quarters of the migrants felt that their previous work experience was not valued in Finland and that their knowledge of the Finnish language was not adequate. Twenty per cent of migrants said that they had experienced inequality in the workplace from fellow employees. The lack of periods of internship and apprenticeship for migrants was felt to be a problem.

35. A research report on racism and ethnicity in the Finnish newspapers had been undertaken in 1999. In connection with the study, a monitoring tool to detect systematic ethnic discrimination in the media was developed. According to the study, foreigners, refugees and minorities were most often mentioned in articles discussing the views of the authorities. Open racism could be found only on some pages containing letters. Hardly any derogatory terms for immigrants were used and there were some articles consciously written to promote tolerance. In 2002, the monitoring was to be extended to the electronic media, including the Internet.

36. In the autumn of 2002, the Ministry of Labour had organized seminars and encouraged discussions on the issue of integration of migrants and, through the Advisory Board for Ethnic Relations, promoted ethnic equality and multiculturalism, inter alia, by organizing a national conference in December 2002 and by appointing 10 good-will ambassadors. Training for local authorities in the prevention of discrimination and dissemination of good practices was undertaken with the support of the European Union.

37. An Act regulating the Treatment of Aliens Taken into Custody and the Facilities Used for Such Purpose entered into force on 1 March 2002. According to the Act, aliens' rights could not be limited more than was necessary in terms of the purposes of detention and of maintaining general safety and order. In exceptional cases, aliens could be placed in police detention facilities for a maximum of four days, if the designed detention facilities were full or the alien had been taken into custody far from the nearest detention facility. Minors could be placed only in police detention facilities together with their families. Exceptional custody cases had to be reported to the district court without delay. Aliens taken into custody had the right to maintain contact with family, friends, consular representatives, the Ombudsmen on Minorities, human rights monitoring mechanisms, the public legal aid adviser and UNHCR.

38. The Government of **Mexico**, in its communication dated 22 May 2003, reported that the Federal Government had implemented measures to protect the rights of migrants, including: strengthened training on migration matters for the Beta groups and increased presence of these groups in high-risk zones; a campaign of information on abuses against undocumented migrants; the finalization of a project to enlarge the Federal District Migration Detention Facility (Estación migratoria); a strengthened programme of regularization of migrants, accompanied by information campaigns; cooperation with the National Institute for Migration to strengthen action for the protection of the human rights of migrants by national human rights commissions and ombudsmen; in the sphere of competence of the federal executive, the establishment of a legal framework for the protection of the human rights of migrants; in the framework of the Memorandum of Understanding with Guatemala, strengthening of the technical commission to promote information-sharing and undertake information campaigns in the border areas; and radio-broadcasted campaigns on the rights of Mexican migrants in the United States.

39. The Government also reported on measures adopted to implement the recommendations of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants, who had visited the country from 25 February to 6 March 2002. They included: strengthening the National Institute for Migration by creating new posts; strengthening the Beta groups; and establishing rescue towers in the desert. Also, there were plans to strengthen cooperation between the Beta groups and the border patrols to rescue migrants and combat smuggling of migrants. The National Institute for Migration had planned to undertake 10 training courses for federal, national and municipal civil servants with responsibilities for the processing of undocumented migrant workers. Campaigns against extortion and abuse against migrants had been launched at the national level and a web page was regularly updated with information on the activities of the Beta groups. Through the Beta groups, information was disseminated on the risks of crossing the border in certain areas. In crossing zones, warning signals were positioned and flyers distributed. Vigilance around main points of expulsion was also strengthened. The punishment for the crime of smuggling was made more severe and authorities were trained on how to combat smuggling networks. In 2003, priority would be given to improving conditions in detention centres for migrants. Medical services were already strengthened in migrant detention centres. Migrants in detention received information on their rights, including the rights to contact consular or embassy officials. The Beta groups had increased the frequency of visits to detention centres.

40. In the framework of the Tuxtla cooperation mechanism, the Government of the State of Veracruz had offered a building for the establishment of a Central American Consulate. Central American countries were exploring all the implications of the establishment of such a Consulate. The Government of Mexico had a special interest in supporting this initiative. Measures were further undertaken to promote development of the communities of origin of migrants in Mexico, through a joint programme of several ministries aimed at developing capacities in families living in extreme poverty through actions integrally linked to health, nutrition and education. On 22 October 2002, the Senate had ratified the two Protocols to the United Nations Convention on Transnational Organized Crime on trafficking in persons and smuggling of migrants. At the national level, a review of national legislation with a view to making it compatible with international standards relating to migrants was ongoing.

41. In its communication dated 28 May 2003, the Government of **Greece** reported that, in an attempt to respond to increased migration flows, Greece had passed new legislation in 2001, setting the rules of entry and residence of aliens and providing that aliens should enjoy the same social security rights and social protection as Greek nationals. The Ministry of the Interior, Public Administration and Decentralization of the Hellenic Republic, which is the responsible authority for migration policy, had been organizing meetings with the communities of aliens every four or five months in the past two years to inform them about their rights and obligations. Greece had set up the Institute for Migration Policy with the objective of carrying out studies and implementing the migration policy, inter alia, concerning issues relating to the social and cultural integration of migrants and the provision of social services, such as education and social assistance.

42. Furthermore, within the Directorate of Aliens and Integration of the Ministry of the Interior, the Section of Social Integration had been established. A study was dedicated to the issue of integration of migrants. The Government reported that acts of xenophobia and racism had been isolated incidents. The Ministry of the Interior, Public Administration and Decentralization had participated with appointed representatives in the European Union Observatory on Racism and Xenophobia and had taken the initiative of creating a Coordinating Inter-Ministerial Committee with the mandate to elaborate and implement the National Action Plan for the Implementation of the Durban Declaration and Programme of Action. European Union Council Directives regarding the principles of equal treatment, inter alia, in employment and occupation, were being adopted to the national legislation.

43. In its communication dated 10 June 2003, the Government of **Panama** reported that a national radio campaign had been initiated to inform irregular migrants about immigrations norms and regulations. Also, the Government indicated that the immigration regulations were being revised and that a census of irregular migrants from China and India had been undertaken with a view to providing them with temporary permits and starting the process of their regularization, provided that they met the requirements established by law. The intention of the Government was to progressively realize a census of irregular migrants of other nationalities. A new manual on migration procedures was being drafted. The modernization of the 1960 migration legislation in order to combat more effectively the smuggling of persons and protect the human rights of all migrants was declared to be a priority.

### **III. Status of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families**

44. The International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families will enter into force on 1 July 2003. As at 26 June 2003, 22 States had ratified the Convention: Azerbaijan, Belize, Bolivia, Bosnia and Herzegovina, Cape Verde, Colombia, Ecuador, El Salvador, Egypt, Ghana, Guatemala, Guinea, Mali, Mexico, Morocco, the Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay. The Secretary-General welcomes the entry into force of the Convention, which will assist in securing a protective mechanism for the human rights of migrants, including those in irregular situation. The Secretary-General urges all Member States that have not yet ratified the Convention to consider acceding to this instrument promptly. The Secretary-General also takes this opportunity to inform the General Assembly that in December 2003, the States parties will meet to elect the 10 members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, which will monitor the compliance of States parties with the provisions of the Convention.

### **IV. Activities of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants**

45. In its resolution 57/218, the General Assembly took note of the interim report of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants, (see A/57/292) and requested her to continue taking into account the recommendations contained in the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001<sup>11</sup> in the performance of her mandate, tasks and duties. The Special Rapporteur was further requested to submit to the Assembly at its fifty-eighth session an interim report on the fulfilment of her mandate.

46. During the four years since the creation of the mandate, the Special Rapporteur has carried out official visits to Canada, Ecuador, Mexico, the region of the United States border with Mexico, and the Philippines. During 2003, the Special Rapporteur intends to continue her programme of visits, giving priority to African and European countries. She presented reports on three country visits to the Commission on Human Rights at its fifty-ninth session (E/CN.4/2003/85/Add.1-3 and Add.3/Corr.1). The Special Rapporteur's main report to the Commission on Human Rights focused on the issue of administrative detention of migrants (E/CN.4/2003/85). Her report to the sixtieth session of the Commission on Human Rights will focus on the situation of migrant domestic workers.

47. In the performance of her mandate, the Special Rapporteur has continued to maintain a dialogue with Governments on the situation of migrants. She presented an addendum to her main report to the Commission on Human Rights at its fifty-ninth session summarizing communications to and from Governments (E/CN.4/85/Add.1 and Add.1/Corr.1). The Special Rapporteur has actively participated in national, subregional and regional events focusing on the human

rights of migrants. In discharging her mandate, she has stressed that, for migration to take place in a context of dignity and respect, a new concept of migration management with human rights as an integral part thereof must be pursued. She has emphasized that migration management comprises an extremely complex series of processes which go well beyond unilateral restrictive measures and control. For this reason she has encouraged dialogue and cooperation among States, international and regional organizations, financial institutions, non-governmental organizations, the private sector and the civil society at large. The Special Rapporteur has also highlighted the need for strengthened efforts and cooperation to combat smuggling of migrants and trafficking in persons and to protect the victims.

## **V. Conclusions and recommendations**

48. The Secretary-General welcomes the efforts made by several Member States to report on the measures that they have adopted to protect migrants.

49. The Secretary-General takes note of the measures adopted by several countries to ensure that migrants are treated equally before the law and in a humane and respectful manner. The Secretary-General is particularly encouraged by the increasing number of bilateral and regional dialogues on migration, including the question of the protection of migrants.

50. The Secretary-General is also encouraged by the efforts of those States that have provided information on the legislative and administrative measures that are being undertaken to strengthen the protection of migrants and on the types of problems with which States and migrants are confronted. It is recommended that in future responses States include information on good practices, as well as obstacles, with respect to the protection of migrants. The Secretary-General invites States that have not yet done so to provide information on legislative and other measures that they are implementing to protect migrants.

51. The Secretary-General expresses his support for the work of the Special Rapporteur of the Commission on Human Rights on the human rights of migrants and encourages her to continue promoting at international events the protection of their human rights. He also encourages the Special Rapporteur to continue her programme of visits and to continue promoting dialogue and cooperation on the issue of migration and the protection of migrants.

52. The Secretary-General welcomes the entry into force of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and urges Member States that have not done so to adhere to this instrument. The Secretary-General encourages States to make the declaration under article 77 of the Convention whereby a State party recognizes the competence of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the Convention have been violated by that State party.

53. The Secretary-General requests Member States to consider ratifying the United Nations Convention against Transnational Organized Crime and the Protocols thereto on smuggling of migrants and trafficking in persons.

54. The Secretary-General is encouraged by the increased dialogue and cooperation between the United Nations and other bodies and organizations in the field of migration and encourages them to continue along this path.

55. The Secretary-General encourages States, in their follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to include aspects relating to migrants in their national plans of action.

#### Notes

<sup>1</sup> See General Assembly resolution 55/2.

<sup>2</sup> United Nations, *Treaty Series*, vol. 596, No. 8638.

<sup>3</sup> See International Labour Organization, *International Labour Conventions and Recommendations, 1952-1976*, vol. II (Geneva, International Labour Office, 1996), sect. I.

<sup>4</sup> General Assembly resolution 55/25, annexes I-III.

<sup>5</sup> United Nations, *Treaty Series*, vol. 189, No. 2545.

<sup>6</sup> *Ibid.*, vol. 606, No. 8791.

<sup>7</sup> *Ibid.*, vol. 360, No. 5158.

<sup>8</sup> See International Labour Organization, *International Labour Conventions and Recommendations, 1919-1951*, vol. I (Geneva, International Labour Office, 1996), sect. I.

<sup>9</sup> *Ibid.*, vol. II, sect. I.

<sup>10</sup> General Assembly resolution 45/158, annex.

<sup>11</sup> See A/CONF.189/12 and Corr.1, chap. I.

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Item 75 (c) of the preliminary list\*

**Review and implementation of the Concluding Document  
of the Twelfth Special Session of the General Assembly****United Nations Regional Centre for Peace, Disarmament  
and Development in Latin America and the Caribbean****Report of the Secretary-General***Summary*

The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean continued to organize a growing number of activities in the reporting period. The Centre implemented various projects and activities in its programme of work, in consultation with Member States in the region, United Nations agencies, international organizations and non-governmental organizations (NGOs). These included activities dealing with issues such as training, weapons and ammunition destruction, stockpile management and dissemination of information.

During the period under review, the Centre devoted considerable attention to promoting existing firearms agreements, notably involving the diplomatic community, members of parliament, law enforcement officers and NGOs. The organization of workshops and conferences to inform representatives from the Latin American and Caribbean region of the need for and benefits of treaty ratification, training for law enforcement officials and capacity-building for NGOs were also part of the Centre's activities in the second half of 2002 and at the beginning of 2003.

\* A/58/50/Rev.1 and Corr.1.



Several other activities were initiated by the Centre during the period under review, for example, in the areas of disarmament and development, conventional weapons, the development of databases and the dissemination of information. The Centre also continued discussions with subregional and global institutions on the feasibility of signing memoranda of understanding to facilitate cooperation and fund-raising.

During the reporting period, the Centre continued to undertake vigorous fund-raising efforts. It was able to strengthen its human resource capacity as each project has been provided with its own support staff.

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## **I. Introduction**

1. On 22 November 2002, the General Assembly adopted, without a vote, resolution 57/89, entitled "United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean". By paragraphs 8 and 9 of the resolution, the Assembly requested the Secretary-General to provide the Regional Centre with all necessary support, within existing resources, so that it might carry out its programme of activities in accordance with its mandate, and to report to the General Assembly at its fifty-eighth session on the implementation of the resolution.

2. The present report is submitted pursuant to the above request. The report covers the activities of the Centre for the period from July 2002 to June 2003. A financial statement on the status of the Trust Fund for the Centre covering the year 2002 appears in annex I to the report. An outline of the planned activities of the Centre for which funding is invited from interested donor countries and organizations is contained in annex II.

## **II. Functioning and mandate**

3. The United Nations Regional Centre for Peace, Disarmament and Development in Latin America and the Caribbean, located in Lima, was established in 1987, pursuant to General Assembly resolution 41/60 J of 3 December 1986. The Centre functions under the auspices of the Department for Disarmament Affairs of the United Nations Secretariat and is mandated to provide, upon request, substantive support for the initiatives and other activities of the Member States of the region for the implementation of measures for peace and disarmament and for the promotion of economic and social development. The Centre functioned until the end of June 1996, when its operations were suspended owing to insufficient voluntary contributions to finance its activities and administrative costs. Following the appointment of the Director of the Centre by the Secretary-General, in pursuance of General Assembly resolution 52/220 of 22 December 1997, and his assumption of office on 1 December 1998, vigorous efforts have been launched to raise funds with a view to revitalizing the activities of the Centre.

4. In pursuit of its mandate, the Centre continued to serve the countries in the region as: (a) a means of promoting subregional, regional and cross-regional activities; (b) a tool to identify synergies between security and development issues; and (c) an instrument for the United Nations in playing a proactive role in the establishment of a more secure environment for social and economic development in the region.

## **III. Activities**

5. The Centre continued to maintain cooperation and coordination with other United Nations agencies and entities during the period under review. In particular, the Centre reached a preliminary agreement with the United Nations Development Programme (UNDP) during 2002 to cooperate on weapons destruction and stockpile management events in Argentina, Brazil, Paraguay and Peru. A formal cooperation framework agreement is expected to be put into place in 2003, extending the scope

of joint activities to all 33 countries in the region. During the period under review, a memorandum of understanding was signed with the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) to facilitate cooperation and coordination between OPANAL and the Centre.

6. The Centre continued discussions with four subregional institutions (the Central American Integration System, the Andean Community, the Caribbean Community (CARICOM) and the South American Common Market (MERCOSUR) and associate States) to explore the possibility of creating a formal cooperation framework and joint work programme to avoid duplication and identify synergies relating to activities in the region. This will facilitate cooperation and coordination with smaller groups of countries in addressing specific security issues of concern in their subregions.

7. The activities carried out during the period under review broadly pertained to seven areas: firearms, ammunition and explosives; anti-personnel landmines; disarmament and development; conventional weapons; nuclear weapons; chemical weapons; and dissemination of information.

#### **A. Firearms, ammunition and explosives**

8. The Centre continued to consolidate its Regional Clearing-house Programme on Firearms, Ammunition and Explosives, which serves as a platform for efforts aimed at assisting States to implement the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, the Model Regulations for the Control of the International Movement of Firearms, their Parts and Components and Ammunition of the Organization of American States (OAS) and the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Under this Programme of Action, the Centre organized training courses, workshops and meetings and developed databases at four levels of activity: diplomatic/political, operational, civil society and practical disarmament.

##### **1. Diplomatic/political level**

9. The Centre and the Swedish Fellowship of Reconciliation (SweFOR) supported the Third Inter-Parliamentary Meeting on the Illicit Traffic in Small Arms and Light Weapons in Central America, which took place in Madrid from 3 to 5 October 2002. The meeting was organized by the Government of Spain and sponsored by the Government of Sweden, the Swedish International Development Agency (SIDA) and the Spanish International Cooperation Agency (AECI). The first Permanent Forum of Parliamentarians committed to implement the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects was established at this meeting. The meeting adopted the Madrid Declaration, which called for the participation in the Forum of parliamentarians from all Latin American and Caribbean countries, as well as from countries in the European Union.

10. The Centre and the Inter-American Drug Abuse Commission (CICAD) of OAS initiated the development of a white book entitled "Legal norms and instruments on firearms, ammunition and explosives in Latin America and the Caribbean", which is a compilation of national legal norms, decrees, laws and instruments on firearms,

ammunition and explosives of all 33 countries in the region. The White Book is intended to provide parliamentarians with a useful tool to analyse their laws and point out gaps in national laws where parliamentarians can reinforce legislative measures and eventually promote national legislative reform in order to implement the 1997 Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials and the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. With the assistance of SweFOR, it is intended to expand the scope of the White Book to include national norms and legislation of the European Union countries.

11. A regional seminar entitled "Firearms, their parts and ammunition: partnership with the industry and the commercial sector to implement the United Nations Programme of Action" was organized by the Centre in Panama City from 13 to 15 November 2002 in cooperation with the Government of Panama and with sponsorship from the Government of Switzerland. Representatives of the firearms and ammunition industries in Latin America and the Caribbean, Governments, international organizations and civil society, and other experts in the area of security and intelligence participated in the meeting.

12. The meeting suggested concrete actions to (a) achieve an equilibrium between economic interests and security needs, improve markings as an international trade tool, and improve information-sharing between the industrial sector and State agencies in order to facilitate the tracing of firearms in illicit circulation, and (b) create a "reflection group" to identify the actors involved in the manufacture of and trade in firearms and ammunition, and to determine the interaction between those actors. The Centre was requested to inform the firearms and ammunition industries in Latin America and the Caribbean about the results of the meeting and to create a web page with information on the United Nations Programme of Action pertinent to the industry. The Centre was also invited to act in the region as a platform for coordination and as a point of contact for the private sector in the implementation of the Programme of Action.

## **2. Operational level**

13. The Centre organized a series of technical meetings between September 2002 and June 2003 to prepare the implementation of the project entitled "Commercial trade of and illicit trafficking in firearms, their parts and ammunition: basic course for training the trainers in investigative techniques". The project is part of the Centre's activities to assist States in the Latin American and Caribbean region to implement the United Nations Programme of Action on small arms and light weapons. The project aims at training some 800 officials from the police, customs, intelligence and armed forces to act as instructors in their respective countries on the legal trade and illicit trafficking in firearms and ammunition, addressing issues such as human security, legal instruments, investigation, firearms trafficking routes, weapons destruction and stockpile management, as well as other issues related to the legal commerce and illicit trafficking in firearms and ammunition (for example, drugs, terrorism and money-laundering).

14. The Centre participated in a conference on criminal problems in the border zones of Ecuador, Peru and Colombia organized by the National Central Bureau of the International Criminal Police Organization (Interpol) and the Peruvian National

Police, from 17 to 19 December 2002 in Lima. The conference addressed issues such as the lack of training, resources and personnel at Interpol to combat illicit firearm and drug trafficking in the Andean region. It also addressed the need to reinforce the level of information exchange between the different agencies, such as Interpol, customs, police, intelligence agencies, coast guards, involved in the control and prevention of illicit firearms and drug-trafficking, reform and standardize the legislation to control firearms, in the region, reinforce border and police controls and coordinate concrete actions among the various agencies mentioned above.

15. The meeting requested the Centre to provide technical and financial assistance in regard to satellite imagery and other feasible mechanisms in order to help control and prevent criminal acts in conflict border zones. It requested the countries of the subregion to promote meetings, seminars and working groups with representatives of the various agencies mentioned above to search for better and common strategies to combat illicit firearm and drug trafficking in the region. It further requested the countries of the subregion to consider improving national legislation relating to firearms.

### 3. Civil society

16. The Centre organized a series of technical meetings during May and June 2003 within the framework of the project entitled "Latin American and Caribbean NGOs: capacity-building, networking and strengthening of their advocacy means" to develop further a training manual and methodology guidelines to train NGOs in Latin America and the Caribbean on the issue of firearms. The meetings, organized in cooperation with Viva Rio, Small Arms Survey, Fundación Arias para la Paz y el Progreso Humano, SweFOR, International Alert and Save the Children Sweden, concluded by approving the training manual, a selection of organizations to be trained during the period 2003-2004, a training schedule, the selection of trainers for the first courses and the creation of support committees to follow up on the training courses. It was also agreed that the first training course would be held in October 2003 in El Salvador.

17. The Centre participated in a coordination meeting of the International Action Network on Small Arms (IANSA) Steering Committee in London on 18 and 19 May 2002 and presented its project entitled "Latin American and Caribbean NGOs: capacity-building, networking and strengthening of their advocacy means". The meeting discussed how IANSA could participate in the project so as to avoid duplication and identify issues where synergies were possible between the Centre and IANSA, as both could serve as a platform for States and organizations in the region. The NGO capacity-building project coordinator of the Centre was requested to participate henceforth in the IANSA Steering Committee on a formal basis.

18. The Centre provided technical assistance to UNDP El Salvador from 21 to 26 May 2003 to develop a proposal for the project entitled "Strengthening mechanisms for the control of firearms in El Salvador" containing suggestions for the follow-up phases of this initiative. The finalized project document is under consideration by the UNDP-El Salvador country team.

19. The Centre hosted and participated in a coordination workshop for Latin America and the Caribbean organized by International Alert, Saferworld, the University of Bradford and seven organizations from the region. The objective of the meeting was to exchange information on and discuss the implementation of the

Programme of Action in Latin America and the Caribbean. A report on the discussion will be issued prior to the convening of the First Biennial Meeting of States on small arms and light weapons in all its aspects.

#### **4. Practical disarmament measures**

20. The Centre coordinated international assistance for the destruction of 10,000 firearms that took place on 12 July 2002 in Rio de Janeiro, Brazil. This activity was organized by the State of Rio de Janeiro through its Public Safety State-Secretariat, the Brazilian Army and Viva Rio, within the framework of the 2006 Firearms and Ammunition Destruction and Stockpile Management Challenge (the 2006 Lima Challenge). A monitoring and verification commission was created by the Centre, with the support of CICAD and the Small Arms and Demobilization Unit (SADU) of UNDP, to supervise the destruction.

21. The Centre provided assistance to the Government of Argentina in its efforts to implement the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials and the United Nations Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. This included the destruction of 2,283 firearms in Mendoza, Argentina, on 10 August 2002; the creation of a monitoring and verification commission composed of representatives of SADU, CICAD, the Government of Canada through its Royal Canadian Mounted Police and others; providing support to the firearms programme of the Province of Mendoza; and improving a police firearms storage facility and creating a new joint police/justice firearms and ammunition storage facility. The Centre also coordinated a second firearms and ammunition destruction event in Mendoza on 22 and 23 November, organized by the Government of Argentina. A total of 2,721 firearms and 8,263 pieces of ammunition were destroyed. A second monitoring and verification commission comprising representatives of the Ministry of Justice and Security of Mendoza and the Ministry of Foreign Affairs of Argentina, as well as representatives of SADU, CICAD, SweFOR and the Canadian Royal Mounted Police, was created to supervise the destruction.

22. On 5 December 2002, the Centre, SADU and CICAD organized the destruction of 2,573 firearms in Lima, at the request of the Government of Peru, within the framework of implementing the Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives, and Other Related Materials, the Model Regulations for the Control of the International Movement of Firearms, Their Parts and Components and Ammunition of OAS and the United Nations Programme of Action. As in other cases, the destruction of firearms was supervised by a monitoring and verification commission composed of representatives of the Ministry of Foreign Affairs, the Ministry of the Interior, the Centre, SADU, CICAD and other international observers.

#### **B. Anti-personnel landmines**

23. The Centre initiated discussions with the Ministry of Foreign Affairs of Peru on a landmine project proposal entitled "Reintegration of landmines and unexploded ordnance victims into productive life in Peru: enhancing the social and economic fabric of Peruvian society". Negotiations were also initiated with possible donors to

provide seed money for the implementation of the project, which is expected to be launched in the second semester of 2003.

### **C. Disarmament, demobilization and reintegration**

24. In August 2002 the Centre started a disarmament, demobilization and reintegration project which would allow the Centre to act as a platform for addressing disarmament, demobilization and reintegration issues and facilitating coordination between the various actors involved in these processes through activities, meetings, seminars, capacity-building and educational sessions, specifically focusing on reintegration. Efforts have been made by the Centre to seek possible partners, such as international organizations and NGOs, as well as possible donors for the project.

### **D. Conventional weapons**

25. The Centre provided logistical support to a regional workshop entitled "Transparency in armaments", organized by the Department for Disarmament Affairs from 26 to 28 November 2002 in Lima. The workshop was hosted by the Government of Peru in collaboration with the Governments of Canada, Germany, Japan and the Netherlands. The workshop was aimed at promoting transparency and confidence-building through greater participation by Member States of the Latin American and Caribbean region in the United Nations Register of Conventional Arms and the United Nations Standardized Instrument for Reporting Military Expenditures. Participants unanimously acknowledged the importance of the two United Nations instruments and agreed that States in the region should regularly participate in them.

### **E. Nuclear weapons**

26. The Centre participated in an International Atomic Energy Agency (IAEA) seminar entitled "New approaches to nuclear verification and nuclear security" on 24 and 25 February 2003 in Vienna. The meeting provided an opportunity for the Centre to discuss some issues directly related to its projects and to start a series of contacts with representatives of Governments, civil society, the donor community and international organizations. In this connection, informal discussions were initiated with various organizations to identify common interests and possible joint projects on nuclear issues (for example, treaty ratification, implementation and exchange of information).

27. A memorandum of understanding was signed between the Department for Disarmament Affairs of the United Nations Secretariat and OPANAL in April 2003. The memorandum of understanding will facilitate formal cooperation between the Centre and OPANAL in strengthening the nuclear-weapon-free zone in Latin America and the Caribbean and improving the level of cooperation and information exchange among Member States in the region.

## F. Chemical weapons

28. The Centre was represented and made a presentation at a seminar entitled "Universality and implementation of the Chemical Weapons Convention" in Philipsburg, Sint Maarten, the Netherlands Antilles, from 20 to 22 May 2003, jointly hosted by the Government of the Kingdom of the Netherlands and the Organisation for the Prohibition of Chemical Weapons (OPCW). The aim of the seminar was to bring together officials and experts from States not party to the Convention in Central America and the Caribbean to discuss policy, as well as practical issues, in relation to adherence to and implementation of the Convention. The representatives of eight States of the region not party to the Convention — Antigua and Barbuda, Bahamas, Barbados, Belize, Grenada, Haiti, Honduras and Saint Kitts and Nevis — participated in the seminar. They described the status of consideration of the Convention in their countries and the steps to be taken.

29. The seminar provided an opportunity for the Centre to discuss and explore possibilities of cooperation with the OPCW secretariat. It was agreed that the two organizations would work together in the coming months to assist Latin American and Caribbean countries to speed up the process of adherence to and ratification of the Convention and to assist them in developing appropriate legislation to implement the Convention.

## G. Dissemination of information

30. During the reporting period, four issues of *Policy Brief* were published, focusing on, among other things, the ratification/implementation of the Comprehensive Nuclear-Test-Ban Treaty, nuclear disarmament issues and issues related to firearms. In addition, the Centre published five issues of *Latin American and Caribbean Regional Perspectives* focusing on exchanges of views among States in the Latin American and Caribbean region on the United Nations Register of Conventional Arms, the standardized instrument for reporting military expenditures and the United Nations Programme of Action, as well as on their participation in the two instruments and their implementation of the Programme of Action.

31. The Centre also continued the development of the Small Arms and Light Weapons Administration (SALSA) System, which serves to provide information on all the activities of the Centre and its partners concerning projects related to the Regional Clearing-house Programme, relevant documentation, points of contact and other activities related to firearms, ammunition and explosives. SALSA is expected to be launched officially later in 2003.

32. During the reporting period, the Centre published a number of information booklets in English and Spanish on various projects and activities it has carried out since July 2002. They include booklets entitled *Disarmament in Action: Responding to the 2006 Lima Challenge*; *Parliamentary Exchange Initiative on Firearms in Latin America and the Caribbean*; *Training Law Enforcement Officials and NGO Capacity-building and the Regional Clearing-house*. Most of the booklets have accompanying CD-ROMs which provide additional information on the various projects and activities undertaken in the course of 2002. For the Clearing-house Programme, three posters were produced, on firearms destructions, ammunition destruction and stockpile management, respectively. In addition, videos were

produced of the various weapons destruction events and four monuments were designed by artists and placed in parks and other public spaces in Mendoza and Lima to mark such events there.

#### **IV. Finance and staffing**

33. In accordance with General Assembly resolution 41/60 J of 3 December 1986, the Centre was established on the basis of existing resources and of voluntary contributions that Member States and interested organizations might make for its support.

34. During the reporting period, voluntary contributions in the amount of US\$ 886,602 were received. In addition, a number of Governments and institutions contributed to the work of the Centre by sharing or absorbing the costs of joint events, personnel and/or material resources. The Secretary-General wishes to express his gratitude to the Governments of Mexico, the Netherlands, Norway, Panama, Sweden, Switzerland and the United Kingdom and Kristna Fredsrörelsen (SweFOR) for their generous support, and to the Government of Peru for its sustained support of the Centre. In addition, the Centre received US\$ 10,000 from the Disarmament Information Programme Trust Fund and US\$ 70,000 from the Practical Disarmament Trust Fund in 2002 and US\$ 170,700 from the Global and Regional Disarmament Trust Fund in 2003.

35. The Director of the Centre continued to undertake an intensive fund-raising campaign in the period under review. The purpose of this effort was threefold: to report on the utilization of funds and past activities; to learn more about the interest in the region of donor countries; and to establish relationships with donors and seek new contributions. Over 60 countries, institutes and foundations were approached for financial assistance.

36. At present, the Centre operates with some administrative support from the UNDP office in Lima. During the reporting period, the Centre was able to strengthen its human resource capacity through building into project proposals the staffing requirements for each project. Currently, besides the Director, the staff of the Centre comprises one associate expert from Sweden, three programme officers, eight administrative and project support staff and three General Service assistants. Despite the relative success in fund-raising during the past two years, the situation of the Centre's Trust Fund remains precarious, since the majority of funds are tied to specific projects. The only confirmed core funding is from the Government of Peru (US\$ 30,000 per year) and from the Government of Sweden (approximately US\$ 200,000 per year).

37. It is worth noting that, during the period under review, the Centre has received an increased number of proposals for partnerships and common projects from countries and organizations in the region. These are mainly requests for assistance in implementing national measures and regional/global agreements on security or disarmament, in developing coordinated approaches to peace and related initiatives, and in promoting social and economic development activities related to security matters.

## **V. Conclusions and observations**

38. The Centre has continued to act as a facilitator for the implementation of regional initiatives by identifying regional security needs and new areas of cooperation with States and organizations in the region. It has continued to provide more in-depth information on firearms matters, including training for the law enforcement community and NGOs on such matters, and to promote the dissemination of information on security issues among diplomats, the military, NGOs and civil society. It has also assisted in weapons and ammunition destruction and initiated a new level of activity in the area of disarmament and development.

39. The Centre also intensified its contribution to the coordination of United Nations efforts towards peace and security in the region and, as a means of avoiding duplication of efforts, has continued to explore the possibility of signing memoranda of understanding with subregional, regional and global organizations, as well as NGOs. The vast regional cooperation undertaken by the Centre during the reporting period has demonstrated, in a concrete manner, the role of the Organization as a regional catalyst for peace and disarmament in assisting countries in the region to advance the cause of peace, disarmament and development in Latin America and the Caribbean.

40. The Secretary-General counts on the continued and increasing support and cooperation of Member States and organizations to ensure the effective functioning of the Centre.

## Annex I

**Status of the Trust Fund for the United Nations Regional  
Centre for Peace, Disarmament and Development in Latin  
America and the Caribbean for the year 2002**

|                                              | <i>United States dollars</i> |
|----------------------------------------------|------------------------------|
| I Fund balance, 31 December 2001             | 137 307                      |
| II Income, 1 January-31 December 2002        |                              |
| Voluntary contributions <sup>a</sup>         | 799 395                      |
| Interest income                              | 21 542                       |
| Other/miscellaneous income                   | 592                          |
| <b>Subtotal</b>                              | <b>821 529</b>               |
| III Expenditures, 1 January-31 December 2002 | 571 824                      |
| IV Fund balance, 31 December 2002            | 387 012                      |

*Note:* Information is based on the financial statement for the period from 1 January to 31 December 2002. During the period from 1 January to 30 June 2003, additional contributions totalling \$542,607 were received from Norway (\$25), Sweden/SweFOR (\$128,192) and the United Kingdom (\$414,390).

<sup>a</sup> 2002: Belgium (\$10,667), the European Commission (\$276,748), Mexico (\$5,000), the Netherlands (\$146,317), Norway (\$14,975), Panama (\$2,000), Peru (\$30,000), Sweden/SweFOR (\$136,985), Sweden (\$21,000), Switzerland (\$49,950) and the United Kingdom (\$105,753).

## Annex II

### Planned activities of the Centre for which funding is sought

#### Project I

##### *Title of project*

Regional workshop to Follow up on the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, adopted at the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects

##### *Purpose*

To facilitate States of the Latin American and Caribbean region in jointly assessing the status of implementation of the Programme of Action in the region; to identify new coordination and cooperation opportunities; and to propose solutions to problems that might hamper the work undertaken either individually or jointly

##### *Location*

University for Peace, San José

##### *Duration*

3 days

##### *Number of participants*

33 countries of the region: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela

| <i>Cost estimates</i>                        | <i>United States dollars</i> |
|----------------------------------------------|------------------------------|
| Travel of participants (33)                  | 67 000                       |
| Travel of experts (12)                       | 25 000                       |
| Travel of staff (3)                          | 7 000                        |
| Interpretation (English, French and Spanish) | 6 900                        |
| Conference documentation                     | 2 600                        |
| <b>Total</b>                                 | <b>108 500</b>               |

## Project II

### *Title of project*

Latin American and Caribbean Conference to Promote the Relationship between Disarmament and Development

### *Purpose*

To provide a forum for promoting, at the regional level, the principles and decisions adopted at the 1987 International Conference on the Relationship between Disarmament and Development; to assess the various activities organized in the region on the matter and provide information that could enhance the work on disarmament and development; and to assess new approaches to addressing the relationship between disarmament and development and adapting them to the current reality of post-cold-war relations and globalization

### *Location*

Port-au-Prince

### *Duration*

3 days

### *Number of participants*

33 countries of the region: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela

| <i>Cost estimates</i>                        | <i>United States dollars</i> |
|----------------------------------------------|------------------------------|
| Travel of participants (33)                  | 71 700                       |
| Travel of experts (12)                       | 27 000                       |
| Travel of staff (3)                          | 7 600                        |
| Interpretation (English, French and Spanish) | 6 900                        |
| Conference documentation                     | 2 600                        |
| <b>Total</b>                                 | <b>115 800</b>               |

### Project III

#### *Title of project*

Seminar on the Strengthening of Latin America and Caribbean Security and the Improvement of Coordination and Cooperation between the United Nations and the Organization of American States (OAS)

#### *Purpose*

To assess areas of coordination and cooperation between the United Nations and OAS on all issues that could strengthen regional security, particularly as OAS reviews different aspects of regional security and redefines the concept and methodology of hemispheric security for the next 10 to 15 years; to provide an opportunity to mutually reinforce efforts, projects, programmes and measures to deal with illicit trafficking in drugs and firearms, terrorism, landmine issues and related issues; and to identify synergies between the work of the two organizations with a view to promoting greater coordination and cooperation between them on matters related to peace and disarmament

#### *Location*

University for Peace, San José

#### *Duration*

3 days

#### *Number of participants*

33 countries of the region: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela

| <i>Cost estimates</i>                        | <i>United States dollars</i> |
|----------------------------------------------|------------------------------|
| Travel of participants (33)                  | 67 000                       |
| Travel of experts (12)                       | 25 000                       |
| Travel of staff (3)                          | 7 000                        |
| Interpretation (English, French and Spanish) | 6 900                        |
| Conference documentation                     | 2 600                        |
| <b>Total</b>                                 | <b>108 500</b>               |

**Project IV***Title of project*

Regional Workshop to Follow up on the Implementation of the Mine-Ban Convention

*Purpose*

To facilitate States of Latin America and the Caribbean jointly assessing the status of implementation of the Mine-Ban Convention in the region; to identify new coordination and cooperation opportunities; and to propose solutions to any problems that might hamper the work undertaken either individually or jointly

*Location*

Tegucigalpa

*Duration*

3 days

*Number of participants*

33 countries of the region: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, Uruguay and Venezuela

| <i>Cost estimates</i>                        | <i>United States dollars</i> |
|----------------------------------------------|------------------------------|
| Travel of participants (33)                  | 77 700                       |
| Travel of experts (12)                       | 29 100                       |
| Travel of staff (3)                          | 8 100                        |
| Interpretation (English, French and Spanish) | 6 900                        |
| Conference documentation                     | 2 600                        |
| <b>Total</b>                                 | <b>124 400</b>               |



## General Assembly

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### Fifty-eighth session

Items 60 and 119 (a) of the preliminary list\*

### Strengthening of the United Nations system

**Human rights questions: implementation of human rights instruments**

### **Letter dated 13 June 2003 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Secretary-General**

I have the honour to transmit the report of an international meeting of experts on the theme of treaty body reform, held at Malbun, Liechtenstein, from 4 to 7 May 2003 (see annex). The meeting was organized jointly by the Office of the United Nations High Commissioner for Human Rights and the Government of Liechtenstein.

I should be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under items 60 and 119 (a) of the preliminary list.

(Signed) Christian **Wenaweser**  
Ambassador  
Permanent Representative

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\* A/58/50/Rev.1 and Corr.1.



**Annex to the letter dated 13 June 2003 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Secretary-General**

**Report of a meeting on reform of the human rights treaty body system\***

(Malbun, Liechtenstein, 4-7 May 2003)

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\* Previously issued under the symbol HRI/ICM/2003/4

## A. Introduction

3. A brainstorming meeting on reform of the human rights treaty bodies was organized jointly by the Office of the High Commissioner for Human Rights and the Government of Liechtenstein. The meeting took place in Malbun, Liechtenstein, from 4 to 7 May 2003. The meeting was attended by members of human rights treaty bodies, representatives of States, United Nations entities, the Inter-parliamentary Union, non-governmental organizations as well as one national institution.
4. The meeting was opened by the Deputy High Commissioner for Human Rights, Mr. Bertrand Ramcharan, who thanked the Government of Liechtenstein for generously hosting the brainstorming meeting and offered introductory remarks on the issue of treaty body reform.
5. The meeting was chaired by Ambassador Christian Wenaweser, Permanent Representative of Liechtenstein to the United Nations in New York.
6. The meeting agreed to work on the basis of the background note on treaty body reform prepared by the Office of the High Commissioner for Human Rights (OHCHR) for consultations on the issue of reforming the system of the human rights treaty bodies (HRI/ICM/2003/3), while not excluding other relevant issues not mentioned in the background note.
7. The meeting agreed to work in a brainstorming mode, in order to facilitate an open and informal discussion. It was agreed that participants should not speak in their respective official capacities and that statements made at the meeting would not be attributed.
8. The meeting held a general discussion on the background note which is reflected in the Chairman's summary, attached as an annex to this report, and thereafter focused on eight specific themes, building on the options put forward in the background note.
9. The meeting agreed that its report would be brought to the attention of the second inter-Committee Meeting which will take place in Geneva from 18 to 20 June 2003 and the fifteenth meeting of chairpersons of human rights treaty bodies which will meet in Geneva from 23 to 27 June 2003. It was also agreed that the report would be submitted to relevant intergovernmental bodies so as to be available to assist in the consideration of the Secretary-General's ideas on the reform of the treaty body system and the reactions to those ideas which are to be submitted by the end of September 2003.
10. The meeting agreed that briefings on the outcome of the brainstorming meeting should be convened both in Geneva and New York for States parties, United Nations entities and non-governmental organizations, and other stakeholders, including national human rights institutions.
11. The following report which was adopted by the meeting is organized in a three tier manner: "Points of agreement" indicate those ideas on which the meeting as a whole was able to agree. Under "other points", proposals are listed which were made and received varying degrees of support, short of general agreement. The column "comments" contains points of particular relevance to the proposals listed above.

**B. Overarching points**

12. Treaty body reform should focus on practical measures to advance the implementation of treaties and improving the effectiveness of monitoring, dialogue and follow-up.

13. Treaty body reform needs to be implemented flexibly, given the specific nature of each treaty and each treaty monitoring body. There is, however, also a need to improve the coordination, and to ensure coherence of the overall system.

14. Further work is needed in the area of definition and terminology, in particular with regard to concepts and terms used in the background note taking into account the agreements outlined in the following paragraphs.

15. Regular and increased resources should be made available to the OHCHR and the Division for the Advancement of Women (DAW) for the substantive and technical support of the work and activities of the human rights treaty bodies.

**C. Harmonization of reporting guidelines**

*Points of agreement*

16. The formulation of harmonized reporting guidelines to govern the technical and formal elements of the reports which would include expectations with regard to format, including length, formatting, modalities of submission as well as methodology for the preparation of reports would assist States parties in preparing their reports. The OHCHR should carry out an assessment of the practicability and effectiveness of the current guidelines relating to the reports of States parties and make recommendations in this regard to the inter-Committee Meeting in 2004.

17. Detailed revised draft guidelines for the core document should be prepared by the secretariat for the consideration of the inter-Committee and Chairpersons' Meetings.

*Other points*

18. The formulation of harmonized guidelines constituting three parts:

1. The recommendation in paragraph 17 above;
2. Guidelines relating to basic information each State party should submit in respect of each treaty which would include cross-cutting issues;
3. Guidelines specific to each treaty to which the State is a party.

19. An agreement on a single report would predicate the preparation of a single set of harmonized reporting guidelines.

**D. A single report**

*Points of agreement*

20. The notion of a single report summarizing a State party's implementation of the full range of human rights treaty provisions to which it is a party was rejected.

21. It is difficult for States parties to submit a single report satisfying their reporting obligations under all treaties to which they are a party, and separate reports relating to the implementation of each treaty to which the State is a party better enables States to fulfil their reporting obligations under each treaty to which they are a party.

22. If States parties nevertheless chose to submit a single document to satisfy their reporting obligations under all human rights treaties to which they are a party that document must be prepared in accordance with all of the reporting guidelines relating to the treaties to which they are a party.

#### *Comments*

23. Regardless of the desirability of a single report the concept of such a report is closely linked to the concept of a single treaty body.

24. A single report satisfying the reporting obligations of a State to each human rights treaty to which it is a party could be a long-term objective for the human rights treaty system to explore, without prejudice to the autonomy and effectiveness of individual treaty bodies, in particular as a cost- and resource-saving measure.

25. A single report requires amendments to existing treaties.

26. Other ways of conceptualizing a single report, other than those mentioned above, could be explored.

27. Arguments against a single report included:

- The marginalization of specific issues,
- Unmanageable length,
- Diminished overall utility of the report, including for civil society,
- Different periodicities,
- The burden of preparation on States parties,
- Burden and complexity of consideration by treaty bodies,
- Complexity and cost for the secretariat,
- Usefulness of specific reports for building national constituencies around particular issues and identifying lacunae in domestic legislation, policies and programmes,
- Requirement of amendment of treaties,
- A single report would inevitably result in a summary,
- A single report does not solve the issue of non-reporting.

28. Under certain circumstances, the submission of a single report might be the only option for some small States with limited administrative and resource capacity to comply with their reporting obligations.

**E. Expanded core document***Points of agreement*

29. The objective of the core document, which States parties are not legally obliged to submit separately, is to reduce the burden of reporting on States parties by avoiding repetition and overlap and to facilitate dialogue by allowing them to submit information relevant for all treaty bodies. However, States parties have not taken the optimum advantage of the possibility of submitting the core document and keeping it updated.

30. More detailed guidelines governing the core document requesting more specific information would result in a core document which would be more beneficial for all.

31. The secretariat should prepare a background paper including proposals for more detailed guidelines for submission to the inter-Committee Meeting.

*Other points*

32. A treaty body may only consider issues provided for in the specific provisions of treaties to which it is a party and core documents assist in this regard.

33. Revised guidelines for the core document could allow for the inclusion of information on the role of national human rights institutions, budgetary allocations in the area of human rights and basic statistical information and challenges confronting collection of information.

*Comments*

34. Many States parties are not aware of the possibility of submitting a core document.

35. Flexibility should govern the regularity with which the core document is updated.

36. Should a core document be expanded to include common or congruent obligations, the regularity of updating and the degree of analysis of such a report should be reviewed.

**F. Focused periodic reports***Points of agreement*

37. Focused reports are reports containing information on specific issues of their treaty obligations which may include those identified in dialogue between treaty bodies and individual States parties and concluding observations or comments.

38. The proposal of focused reports requires further exploration and definition.

*Other points*

39. States parties could be asked to submit focused reports after submitting their initial report, and at least one periodic report.

40. Treaty bodies should continue to request a comprehensive report when necessary or appropriate.
41. Focused reports may be linked to the notion of an expanded core document.
42. The notion and format of focused reports should be tested through a pilot project, preferably conducted by a long-standing treaty body, in order to identify possibilities and advantages of the use of such reports.

*Comments*

43. The following advantages of focused reports were identified:
  - Framework for systematic follow-up to concluding observations or comments,
  - Allow for shorter reports,
  - Allow for more substantive and effective cross-referencing of reports,
  - Reduce overall burden for States parties, treaty bodies and the secretariat,
  - Improve quality of dialogue between States parties and treaty bodies,
  - Allow for more in-depth analysis of issues and areas of concern,
  - Provide framework for quality and focused concluding observations,
  - More effective use of secretariat resources.
44. Concerns included:
  - Focused reports might not comply with overall reporting obligations,
  - Neglect of areas for periods of time,
  - Allow for a non-comprehensive approach to reporting on treaty obligations, as well as selective implementation,
  - Marginalization of some issues and related constituencies at national level,
  - Such reports would not address non-reporting by States parties,
  - Such reports might focus solely on issues receiving public attention,
  - Narrowing of the basis of information for future reports,
  - Focused reports might limit opportunities for States parties to highlight successes in implementation and best practices,
  - Lack of clarity as to the basis of the focused report.
45. Treaty bodies could draw up lists of issues to guide the preparation of focused periodic reports.
46. States are already able to submit focused reports, and some have already submitted such reports.
47. Reporting guidelines and working methods innovations of some treaty bodies provide for the preparation of focused reports.
48. Disadvantages of the focused approach to reporting already exist in regard to the current reporting system which is currently overloaded and unable to maximize its potential.

49. The equal treatment of States parties to human rights treaties must be ensured in the consideration of the option of focused reports.

#### **G. Thematic or modular reporting**

##### *Points of agreement*

50. The concept of the thematic or the modular report requires further clarification.

##### *Other points*

51. A modular report is a report consisting of a common document for all treaty bodies to which specific reports under each treaty will be attached.
52. Thematic reports are distinct from modular reports, and focused reports are distinct from both thematic and modular reports.

##### *Comments*

53. Thematic reports are largely identical with focused reports; a report constructed along thematic lines taking into account areas common to a number of treaties may also be described as a thematic report.
54. Reports could be both focused and thematic.

#### **H. Periodicity**

##### *Points of agreement*

55. Treaty bodies should set their schedules for review of States parties reports as far ahead as possible.

##### *Other points*

56. Amendments to periodicity requirements in human rights treaties should not be recommended.
57. Treaty bodies should schedule the submission date of the next periodic report of States parties in their concluding observations or concluding comments.
58. Reporting under all human rights treaties should be subject to a five-year periodicity.
59. States should be provided with the opportunity of presenting reports to the various committees in a staggered time frame, while retaining the possibility of presenting reports to the committees in a short time frame if they so wish.
60. A mechanism, such as the inter-Committee Meeting, to oversee the overall schedule of presentation of reports to treaty bodies should be established.
61. The value of flexibility with respect to periodicity requirements must be considered against the value of equal treatment for all States.
62. Preparation of reports required under human rights treaties is a lengthy process at the national level.

*Comments*

- 63. Periodicity requirements in treaties can only be adjusted via amendments to the treaties.
- 64. The periodicity requirements in human rights treaties are directed to ensuring regular monitoring of all States parties on an equal basis.
- 65. Treaty bodies approach periodicity requirements with flexibility.

**I. Capacity-building***Points of agreement*

- 66. An inventory of capacity-building support available from entities of the United Nations system should be created.
- 67. Evaluation of impact of capacity-building efforts should be integrated into such efforts.
- 68. Best practices in approaches to capacity-building should be gathered and disseminated.
- 69. Capacity-building must be holistic and sustainable. It should be subject to quality control and aimed at implementation of treaty obligations and follow-up to recommendations of treaty bodies.
- 70. Capacity-building should also lead to a process of effective national reporting.
- 71. Existing capacity-building activities of the OHCHR, the United Nations Children's Fund (UNICEF) and the DAW and the United Nations and non-United Nations actors are noted. These efforts, in particular relating to follow-up to recommendations of treaty bodies, should be expanded and adequately funded.
- 72. Enhanced coordination among capacity-building actors is strongly encouraged.
- 73. Efforts to improve coordination among the OHCHR and the DAW and treaty bodies should be undertaken in order to consider possible objective and strategies that could contribute to the effectiveness of technical cooperation.
- 74. All efforts should be made to ensure that capacity-building should be funded from, inter alia, the voluntary fund for technical cooperation of the OHCHR.

*Other points*

- 75. Mechanisms at the national level, such as reporting units or commissions, should be established and supported.
- 76. The issue of capacity-building should be considered in the broader framework of the Millennium Development Goals, as is already the case for some United Nations entities.
- 77. The capacity of the staff of the OHCHR, and the DAW and United Nations agencies, funds and programmes, including at the national level, such as United Nations country teams, to assist States with respect to the human rights treaty system should be strengthened.
- 78. Parliamentarians, parliamentary commissions and national human rights institutions should be familiarized further with the human rights treaty body system.

*Comments*

79. Capacity-building efforts, such as support for the establishment of a single unit for reporting, should not undermine the goal of mainstreaming of human rights at the national level and should include a broad human rights education strategy.

**J. Miscellaneous***Points of agreement*

80. The inter-Committee Meeting is an extremely valuable forum for exchange of views and coordination among treaty bodies.

81. Informal meetings between individual treaty bodies and States parties should be convened on a regular basis.

82. All treaty body members should be consulted about the Meetings of the Chairpersons and the inter-Committee Meeting.

*Other points*

83. Inter-Committee Meetings should increasingly replace the Meetings of Chairpersons.

84. A maximum of three terms for treaty body members with respect to individual treaty bodies could be considered.

85. The capacity of the secretariat to support treaty bodies should be strengthened.

86. The High Commissioner should issue a statement on the central value of the work of treaty bodies at the country level.

87. The issue of equitable geographical distribution and gender balance in the membership of treaty bodies should be addressed.

88. Press releases relating to treaty body sessions should be checked for accuracy by the relevant treaty bodies according to a procedure to be defined by each of these bodies.

89. Treaty bodies should develop a mechanism to ensure that concluding observations/comments are checked for factual accuracy.

90. Treaty bodies should introduce working methods innovations, such as time limits on interventions, to ensure best use of time available in sessions.

91. Treaty body experts should receive adequate honoraria, inter alia, to ensure their genuine independence.

92. Documentation for the consideration of treaty bodies should be submitted well in advance so as to allow for translation.

93. Lists of issues or questions should be drawn up by treaty bodies and submitted to States parties with regard to the dialogue on their reports.

94. As a short-term measure to address the problem of outstanding reports, treaty bodies should allow for the consolidation of overdue reports.

*Comments*

95. There should be no term limits for treaty body members.

## Annex

**Chairperson's summary**

1. The following reflects the Chairperson's summary of the discussions during the plenary session of the brainstorming meeting on treaty body reform on 5 and 6 May 2003. The Chairperson takes personal responsibility for the summary which was not adopted by the meeting.
2. The summary is limited to those plenary discussions which dealt with a general consideration of the background note prepared by the Office of the High Commissioner for Human Rights which was agreed as providing the basis for the considerations of the meeting. Consequently, those plenary meetings dealing with the reports from sub-groups on specific topics are not reflected in this summary. The contents and outcomes of those discussions are part of the report which was adopted by the meeting. Upon suggestion from the Chair, the discussions during these meetings focused primarily on the issue of a "single or consolidated report" and a "focused report", contained in the list of possible reform measures contained in the background note.
3. In his opening address, Mr. Bertie Ramcharan, the Deputy High Commissioner for Human Rights, noted that the Secretary-General's ideas on reform of the treaty body system put forward in his report on strengthening of the United Nations: an agenda for further change were echoed in the Office of Internal Oversight Services' (OIOS) "Management review of the Office of the United Nations High Commissioner for Human Rights". He also noted that the quest for reform in this context was a continuing process and required the input of members of treaty bodies, States parties and civil society so that a practical outcome could be achieved.
4. The Deputy High Commissioner suggested that a study of the consolidated obligations created by the human rights framework, including as explained by general comments or recommendations of the human rights treaty bodies, could provide States parties with a full picture of the totality of their legal obligations, and allow for a holistic approach to implementation. The objectives of the human rights treaty system, as well as the treaty bodies, in securing implementation of obligations should be the context of proposals for reform in this area. Emphasis should also be placed on ways in which the system can contribute to the national protection system of each country, as well as the system of international protection.
5. Participants underlined that the current human rights treaty system had significant strengths. It allowed for the consideration of implementation of human rights obligations at the domestic level and provided a means by which human rights concerns could be integrated into national development strategies. The current system also provided a context for the creation of communities concerned with specific human rights concerns. Emphasis was placed on the importance of a practical and flexible approach, and it was noted that the working methods of treaty bodies had developed in accordance with the spirit, rather than the letter, of the individual treaties. While reform efforts were to be welcomed, it was also worth drawing attention to the significantly increased number of ratifications since the World Conference on Human Rights in 1993. Some of the difficulties the treaty bodies were facing were thus the result of the success of the reporting system.

6. A number of participants were concerned that a consolidating approach to the obligations under human rights treaties could result in invisibility of certain categories of rights or rights holders. All participants rejected the proposal that each State be allowed to produce a single report summarizing its implementation of the full range of the provisions of the human rights treaties to which it is a party as proposed by the Secretary-General, on the basis that such a report would lack focus and transparency. It was also questioned whether a single report was feasible in practice and if such an approach would in fact ease the burden of reporting currently imposed on States parties.

7. However, several participants expressed the view that there was no legal obstacle to States parties preparing and submitting a single report provided that such a report was prepared in accordance with the reporting guidelines of the treaty bodies of the human rights treaties to which a State was a party. It was suggested that such an approach might be the only option for small States to comply with their reporting obligations, especially for small States with very limited administrative and human resources. Some participants suggested that amendment of the treaties would be required before such a report would be acceptable, as each treaty envisaged reporting on a discrete basis. Most were of the opinion that such a report would marginalize certain issues, and detract from the different focus that reports to the various treaty bodies should have.

8. A number of participants noted that the idea of the single report was associated with and would inevitably lead to the creation of a single committee or treaty body. The preparation of such a report might also impose a significant burden for those States parties which wished to report in detail on their obligations. States with federal structures could also face significant obstacles. Furthermore, the single report might also be burdensome for the treaty bodies and the secretariat. A single report would not necessarily increase the level of State party compliance with reporting obligations, and the effort required to update a single report for each treaty body would outweigh any advantages of a single report. It was also suggested that civil society would not regard a single report as an adequate monitoring mechanism, and that its length and complexity might make it inaccessible for that audience.

9. A single report complying with all the reporting guidelines of all the treaty bodies would comply with the legal requirements in the human rights treaties. Such a report might also be a very comprehensive report, addressing areas of overlap or congruence in the human rights treaties through cross-referencing. Such a report complying with the reporting guidelines of all the treaty bodies could be a long-term objective, and result in significant savings of resources. The formulation of comprehensive consolidated guidelines would be required, and safeguards would be required to ensure that the report did not merely summarize implementation. Greater clarity and more consideration of the requirements of the comprehensive single report were necessary, as well as support for States parties.

10. The value of the preparation and presentation of reports as a process was emphasized, with several participants pointing to the fact that the reporting process served to raise awareness of human rights issues generally, as well as those specific to individual treaties. Several participants stressed the importance of making reporting an effective instrument to instigate change at the national level, and that reporting should be viewed as a continuous and periodic process, rather than a one-time event. In this regard, follow-up to the concluding observations/comments of

treaty bodies was essential. Several participants noted that the practice of engaging international consultants to prepare human rights reports might detract from the necessary State engagement in reporting as an instrument to ensure progress in implementation. It was noted that it was the Government's responsibility to prepare human rights reports and that while non-governmental organizations and others should be involved in the process, they should not take the lead in the preparation of reports.

11. It was important that reasons for non-reporting were identified. These could be political, but very often were linked to lack of human and financial resources and capacity. In some cases, non-reporting could result from a perception that the process of reporting was confrontational, perhaps in the nature of a judicial proceeding. Some participants suggested that individual treaty bodies could meet with non-reporting States parties in order to discuss obstacles to reporting, and to make proposals and suggestions in that regard. A few participants also suggested that States parties should react to non-reporting by other States parties, and that the meetings of States parties to the individual treaties should discuss non-reporting. This would be a logical consequence of the fact that reporting to the treaty bodies was a legal obligation which States had to fulfil vis-à-vis other States parties, rather than vis-à-vis the treaty bodies themselves. The practice of most treaty bodies of reviewing States parties whose reports were significantly overdue in the absence of a report was commended by some participants, while others considered this practice to be ultra vires the terms of the treaties.

12. Capacity-building efforts undertaken by the OHCHR, other parts of the secretariat, including DAW, and other United Nations entities, such as UNICEF were welcomed. Participants called for the strengthening of capacity-building activities, both for States and civil society, and the optimization of resources available to the OHCHR and the wider United Nations system for this purpose. It was noted that members of parliaments and parliamentary commissions should be further familiarized with the human rights treaty body system particularly in view of the authority of parliament to hold governments accountable.

13. Emphasis was placed on the need for capacity-building activities to be subject to quality control and to be sustained, rather than one-off training events for bureaucrats, and on the importance of follow-up to such activities. Capacity-building could also be directed at assisting States parties to create structures and frameworks, such as units, to coordinate report preparation. Strategies to ensure that the human rights treaty system formed part of human rights education were also required. Coordination and cooperation across the United Nations system, including through United Nations Country Teams, in this area was critical, as was evaluation of impact. Efforts should also be directed at building relationships of confidence with individual States parties.

14. Several participants suggested that an inventory of capacity-building and training activities in the field of human rights available through the United Nations should be compiled by the OHCHR, and made available through an electronic database. In addition, a compilation of best practices and success stories in capacity-building, as well as the impact of the human rights treaty system at the national level should be prepared. Treaty bodies should be encouraged to identify areas where capacity-building would be of benefit for individual States parties. Linkages should also be made with other processes, such as the CCA/UNDAF and the PRSPs.

15. It was suggested that the strain the current system places on States parties, the secretariat and States had to be taken into account. Participants therefore suggested that States should take advantage of the possibility of preparing a core document containing information relevant for all treaty bodies in accordance with the existing guidelines agreed by them in 1991. It was noted that there was no legal obligation for States parties to submit a core document, and a significant number had not done so. Of those States that had submitted such documents, few had kept these up to date. Although some participants suggested that the core document was only background for treaty bodies and could not form the basis of dialogue with States parties, a large number of participants agreed that, given the nature of the information contained in a core document, such core documents could be part of a dialogue between treaty bodies and Member States.

16. A number of participants suggested that there was scope for the formulation by treaty bodies of guidelines which would provide for an expanded core document including substantive areas common to each treaty, as well as statistical information, including difficulties in the collection of such information. Any expanded core document would require regular updating and some participants were concerned if it were required to contain too much common information it would rapidly become outdated.

17. Several participants noted that States parties' reports were frequently general and did not provide sufficient specific information on the level of implementation of treaty obligations. It was noted that treaty bodies could call for more focused information or focused reports. Several participants drew attention to the current practice, whereby all but one treaty body prepares a list of issues and questions to guide the dialogue with the State party on its report, and suggested that a similar list of issues prepared by the relevant treaty body could guide the preparation of a focused report, while also leaving the State party free to provide further information. Several participants suggested that the State party's previous report, concluding observations, any other information the State party might wish to provide, and NGO reports could form the basis of this list of issues. Others considered that lists of issues could not form the basis of reports of States parties as this was not envisaged in the treaties and because of the difficulties treaty bodies would have in accessing appropriate information on which to base the list of issues.

18. Several participants pointed to the emerging practice of treaty bodies, particularly the Human Rights Committee, to require reporting on issues highlighted in the concluding observations. Several also drew attention to the potential linkage between an expanded core document and focused periodic reports based on concluding observations which highlight priority concerns. Although a few participants considered that concluding observations should not identify priority concerns, others indicated that guidance from treaty bodies with regard to future reports was valuable, and led to sustained dialogue between the State party and the individual treaty body. It was also pointed out that the practice of preparing "focused reports" was already an option for States that decided to concentrate their periodic reporting on areas previously identified by treaty bodies.

19. Participants emphasized the importance of a consistent approach to all States parties, which also allowed each treaty body the flexibility of adopting its own approach. Some suggested that States parties should be called on to submit up to two comprehensive reports and then be given the option of preparing a focused periodic

report. Comprehensive reports could then be submitted after the consideration of two focused periodic reports, or whenever a treaty body requested such a report. Some participants suggested that the option of focused reports would require strengthening of the analytical capacity of treaty bodies and the secretariat and proposed that one treaty body implement the approach of focused reports on a pilot basis. The concern was expressed that focused reports would make it more difficult for treaty bodies to have an overall picture of the implementation of a specific human rights treaty by a State party.

20. Attention was drawn to the periodicity which reports under human rights treaties are required to comply and that these periodicity requirements differed from treaty to treaty. While emphasizing the importance of regular periodic review of implementation of human rights obligations, most participants suggested that efforts should be made to harmonize these requirements, although some suggested that this would require amendments to the treaties. The importance of equal treatment of States parties was also stressed, although allowing treaty bodies flexibility with respect to reporting periodicity was also recommended. More harmonization of the methods of work of treaty bodies was also recommended, so that an holistic message concerning human rights implementation would be conveyed to States parties.

21. Several participants recommended the creation of a mechanism which would enable States parties to stagger the submission and presentation before treaty bodies should they wish to do so. In this context, some participants suggested that the role of treaty bodies in monitoring implementation of obligations could be more effective if reports were submitted and considered over a period of years. Others believed that the preparation and consideration of reports should not be staggered, but that report preparation, which was a two-year process at the national level should be an ongoing process in order to provide a framework of effective human rights policies at the country level. It was also noted that some States parties wish to present their reports under all the human rights treaties to which they are a party in a short time frame.

22. Several participants drew attention to the difference in detail and length of the current guidelines prepared by treaty bodies. The necessity of review of the current reporting guidelines of human rights treaty bodies was also pointed out in this context. Such a review should consider the most effective form of guidelines and the possibility of their harmonization, in particular with respect to formal matters, such as format, presentation and length, and the methodology for preparing reports. In this regard, some drew attention to the introduction of page limitations for reports by some treaty bodies and suggested that all treaty bodies adopt this approach. Some participants suggested that the general comments or recommendations be integrated into revised reporting guidelines. Others noted that general comments or recommendations were not legally binding.

23. A number of participants highlighted the potential of the inter-Committee Meeting as a coordinating body for issues concerning all treaty bodies. It was noted that the inter-Committee Meeting could coordinate dates of presentation of States parties reports, and take the lead in the revision of the reporting guidelines of all Committees. It could also have a substantive function, in particular in the formulation of comments or recommendations on cross-cutting thematic concerns.

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**Fifty-eighth session**

Item 111 of the preliminary list\*

**International drug control****Progress achieved in meeting the goals and targets set out in  
the Political Declaration adopted by the General Assembly  
at its twentieth special session****Report of the Commission on Narcotic Drugs***Summary*

The present report has been prepared pursuant to section II, paragraph 13, of General Assembly resolution 55/65 of 4 December 2000 and section II, paragraph 17, of Assembly resolution 56/124 of 19 December 2001, in which the Assembly welcomed the decision of the Commission on Narcotic Drugs, in its resolution 42/11, to submit a report to the Assembly in 2003 and 2008 on the progress achieved in meeting the goals and targets set out in the Political Declaration adopted by the Assembly at its twentieth special session (resolution S-20/2, annex).

In its resolution 45/7, the Commission recommended that a joint ministerial statement be issued and submitted to the General Assembly, together with its report in 2003 on the progress achieved in meeting the goals and targets set out in the Political Declaration. The Joint Ministerial Statement, contained in the present report, includes an assessment of the implementation by Member States of the action plans emanating from the twentieth special session of the Assembly and recommendations for the period 2003-2007. The report also describes the outcome of the four round-table discussions held during the ministerial segment of the Commission at its forty-sixth session.

\* A/58/50/Rev.1 and Corr.1.



**Report of the Commission on Narcotic Drugs on the  
progress achieved in meeting the goals and targets  
set out in the Political Declaration adopted by the  
General Assembly at its twentieth special session**

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## I. Introduction

1. In the Political Declaration adopted by the General Assembly at its twentieth special session (Assembly resolution S-20/2, annex), in 1998, the Assembly called upon all States to report biennially to the Commission on Narcotic Drugs on their efforts to meet the goals and targets set out in the Political Declaration for 2003 and 2008; and requested the Commission to analyse those reports in order to enhance the cooperative effort to combat the world drug problem.

2. At its forty-second session, in 1999, the Commission examined its new mandates emanating from the Political Declaration. In its resolution 42/11, entitled "Guidelines for reporting on the follow-up to the twentieth special session of the General Assembly", the Commission adopted a questionnaire that included the information required for reporting on the action plans and measures adopted by the Assembly at that special session; requested the Executive Director of the United Nations International Drug Control Programme to prepare, on the basis of the replies to the questionnaire provided by Member States, a biennial report, to be examined by the Commission at its sessions in 2001, 2003, 2005, 2007 and 2008 covering the difficulties encountered in meeting the objectives and targets agreed upon at that special session; also requested the Executive Director to cover in his report the efforts of Governments to meet the objectives and target dates established by the Assembly at that special session, on the basis of a comprehensive, confidential and balanced treatment of information covering all aspects of the drug problem; and decided to submit a report to the Assembly in 2003 and 2008 on the progress achieved in meeting the goals and targets set out in the Political Declaration.

3. At its forty-fourth session, in 2001, the Commission considered the consolidated first biennial report of the Executive Director on the implementation of the outcome of the twentieth special session of the General Assembly, devoted to countering the world drug problem together (E/CN.7/2001/16), which had been prepared on the basis of the replies to the questionnaire submitted by 109 Governments. At its forty-sixth session, in 2003, the Commission had before it the second biennial report of the Executive Director on the implementation of the outcome of the twentieth special session of the Assembly (E/CN.7/2003/2 and Add. 1-6), which had been prepared on the basis of 117 replies to the questionnaire.

4. In section II of its resolution 55/65 of 4 December 2000, and in section II of its resolution 56/124 of 19 December 2001, the General Assembly welcomed the decision of the Commission, in its resolution 42/11, to submit a report to the Assembly in 2003 and 2008 on the progress achieved in meeting the goals and targets set out in the Political Declaration.

## II. Results of the ministerial segment of the Commission on Narcotic Drugs at its forty-sixth session

5. In section I of its resolution 1999/30 of 28 July 1999, the Economic and Social Council recommended that the Commission on Narcotic Drugs convene, whenever appropriate, ministerial-level segments of its sessions to focus on specific themes related to the follow-up to the twentieth special session of the General Assembly. At its forty-third session, in 2000, the Commission agreed to convene a ministerial-level segment at its sessions in 2003 and 2008, to coincide with the two target dates for achieving the goals agreed upon by the General Assembly at its twentieth special session.

6. In its resolution 45/7, the Commission on Narcotic Drugs decided that the ministerial-level segment of its forty-sixth session should be held in Vienna in April 2003 and that the segment should be held for a period of two days; also decided that the theme of the ministerial-level segment should be the assessment of the progress achieved and the difficulties encountered in meeting the goals and targets set out in the Political Declaration adopted by the General Assembly at its twentieth special session; and recommended that a brief joint ministerial statement be issued at the conclusion of the ministerial-level segment, which would cover the following: an assessment of the implementation of the commitments assumed at the twentieth special session of the General Assembly; and recommendations for the period 2003-2007, including recommendations on strengthening the role of the Commission on Narcotic Drugs, as well as the role of the United Nations International Drug Control Programme.

7. The ministerial segment of the forty-sixth session of the Commission was held in Vienna on 16 and 17 April 2003. It was attended by representatives of 132 States (including 75 ministers), 13 intergovernmental organizations and 30 non-governmental organizations. Ministers and government representatives participating in the ministerial segment adopted the following Joint Ministerial Statement, which is a reflection of the assessment of the efforts of Member States to implement the action plans and measures adopted by the General Assembly and recommendations for the period 2003-2007:

### A. Joint Ministerial Statement and further measures to implement the action plans emanating from the twentieth special session of the General Assembly

#### *Introduction*

1. We, the ministers and government representatives participating in the ministerial segment of the forty-sixth session of the Commission on Narcotic Drugs, held in Vienna on 16 and 17 April 2003, reaffirm our commitment to the outcome of the twentieth special session of the General Assembly, which made a significant contribution to a new general framework for international cooperation to address the growing drug problem, setting out specific goals and targets to be attained by all States by 2003 and 2008.

2. We renew our commitment to the principles established in the Political Declaration adopted by the General Assembly at its twentieth special session,<sup>1</sup>

<sup>1</sup> General Assembly resolution S-20/2, annex.

inter alia, that action against the world drug problem is a common and shared responsibility requiring an integrated and balanced approach in full conformity with the purposes and principles of the Charter of the United Nations and international law.

3. We acknowledge the increased efforts and the achievements of many States, the United Nations system and other international organizations, as well as of civil society, in countering drug abuse, illicit drug production and trafficking, and that international cooperation has shown positive results. We welcome the fact that the international drug control treaties now enjoy almost universal adherence.

#### *General assessment*

4. We recognize that progress has been uneven in meeting the goals set in the Political Declaration, as also reflected in the biennial reports<sup>2</sup> of the Executive Director of the United Nations Office on Drugs and Crime.<sup>3</sup> The drug problem is still a global challenge that constitutes a serious threat to public health, safety and well-being of humankind, in particular children and young people. It undermines socio-economic and political stability and sustainable development, including efforts to reduce poverty, and causes violence and crime, including in urban areas.

5. We are deeply concerned by the serious challenges and threats posed by the continuing links between illicit drug trafficking and terrorism and other national and transnational criminal activities, such as trafficking in human beings, especially women and children, money-laundering, corruption, trafficking in arms and trafficking in chemical precursors. Strong and effective international cooperation is needed to counter these threats.

6. We are gravely concerned about policies and activities in favour of the legalization of illicit narcotic drugs and psychotropic substances that are not in accordance with the international drug control treaties and that might jeopardize the international drug control regime.

#### *General recommendations*

7. We call upon States that have not already done so to become parties to the international drug control conventions. We reiterate the importance of States parties' fully implementing those conventions and urge States parties to take all measures to safeguard the integrity of the international drug control regime.

8. We emphasize that the world drug problem must be addressed in multilateral, regional, bilateral and national settings and that, in order to succeed, action to counter it has to involve all Member States. Action must be supported by strong international and development cooperation and must be further included in national development priorities. It requires a balance between supply reduction and demand reduction, as well as a comprehensive strategy that combines alternative development, including, as appropriate,

<sup>2</sup> E/CN.7/2001/2, E/CN.7/2001/16 and E/CN.7/2003/2 and Add.1-6.

<sup>3</sup> Formerly known as the Office for Drug Control and Crime Prevention.

preventive alternative development, eradication, interdiction, law enforcement, prevention, treatment and rehabilitation as well as education.

9. In the spirit of the principle of common and shared responsibility, we recommend that Member States, including donor countries, as well as international organizations, continue to provide financial and technical support for the fight against illicit drugs at the international, regional and national levels and, as appropriate, to provide new and additional support, in particular to drug-producing and transit countries.

10. We continue to support the role of the Commission on Narcotic Drugs, as the global coordinating body in international drug control and as the governing body of the United Nations International Drug Control Programme.

11. We also continue to support the role of the United Nations International Drug Control Programme in the global fight against illicit drugs and its exclusive responsibility to coordinate all drug control activities within the United Nations system.

12. We recommend that a sufficient share of the regular budget of the United Nations be allocated to the United Nations International Drug Control Programme to enable it to fulfil its mandates and to work towards securing assured and predictable funding.

13. We support the role of the International Narcotics Control Board and call for enhanced cooperation and understanding between Member States and the Board in order to enable it to implement all its mandates under the international drug control conventions.

14. We call upon States to continue to contribute to the maintenance of a balance between the licit supply of and demand for opiate raw materials used for medical and scientific purposes and to cooperate in preventing the proliferation of sources of production of opiate raw materials.

15. We call for the issue of international drug control to continue to be included among the key priorities of the United Nations in its medium-term plan.

16. We call upon the relevant United Nations agencies and entities, other international organizations and international financial institutions, including regional development banks, to mainstream drug control issues into their programmes.

17. We call upon all actors of civil society, including the media and the private sector, to continue their close cooperation with Governments in promoting and achieving the goals set by the General Assembly, in particular with regard to efforts to reduce illicit drug demand and to deal with problems related to the transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) and other infectious diseases, in accordance with the provisions of the international drug control conventions.

#### *Final remarks*

18. We, ministers and government representatives, reaffirm that international cooperation and the mainstreaming of drug control efforts are indispensable in

attaining our universal aspirations of international peace and security, economic and social progress, a better quality of life and improved health in a world free of illicit drugs. We therefore pledge our unwavering support to these common objectives and our firm determination to achieve them and, to these ends, we also recommend the following:

**Further measures for the implementation of the action plans emanating from the twentieth special session of the General Assembly**

*A National drug control strategies*

1. As a reflection of the high priority accorded to countering the drug problem, most States have adopted national drug control strategies that have included the goals agreed upon at the twentieth special session of the General Assembly.

2. We stress that, in order to be able to further develop sound, evidence-based drug control policies, data collection and analysis and evaluation of the results of ongoing policies are essential tools.

*B Reduction in demand*

3. Member States have made progress in setting up new or enhancing initiatives to reduce illicit drug demand, in dealing with prevention of drug abuse and in the treatment and rehabilitation of drug abusers. Many Governments have initiated special programmes targeting groups at risk, in particular drug-injecting abusers, in order to limit their exposure to infectious diseases such as HIV/AIDS. Civil society, including non-governmental organizations, is also playing a pivotal role in furthering measures to reduce illicit drug demand. However, drug abuse remains at an unacceptably high level. We are concerned at the rapid and widespread increase in the illicit production and abuse of narcotic drugs and psychotropic substances, including amphetamine-type stimulants and other types of synthetic drugs, especially among children and young people. We also note that among the most outstanding difficulties faced by many States in this area are financial and other resource constraints, as well as shortcomings in areas such as appropriate systems and structures, training and multisectoral and international cooperation.

4. Special efforts are essential to achieve a significant and measurable reduction of drug abuse by 2008. States should, in particular:

(a) Further implement comprehensive demand reduction policies and programmes, including research, covering all the drugs under international control, in order to raise public awareness of the drug problem, paying special attention to prevention and education and providing, especially to young people and others at risk, information on developing life skills, making healthy choices and engaging in drug-free activities;

(b) Further develop and implement comprehensive demand reduction policies, including risk reduction activities, that are in line with sound medical practice and the international drug control treaties and that reduce the adverse health and social consequences of drug abuse, and provide a wide range of

comprehensive services for the treatment, rehabilitation and social reintegration of drug abusers, with appropriate resources being devoted for such services, since social exclusion constitutes an important risk factor for drug abuse;

(c) Enhance early intervention programmes that dissuade children and young people from using illicit drugs, including polydrug use and the recreational use of substances such as cannabis and synthetic drugs, especially amphetamine-type stimulants, and encourage the active participation of the younger generation in campaigns against drug abuse;

(d) Provide a comprehensive range of services for preventing the transmission of HIV/AIDS and other infectious diseases associated with drug abuse, including education, counselling and drug abuse treatment, and in particular assist developing countries in their efforts to deal with these issues.

### C. *Illicit synthetic drugs*

5. Most Governments are aware of the growing threat posed by the continued illicit manufacture of, trafficking in and abuse of amphetamine-type stimulants and are according high priority to reducing that threat. Many countries have begun campaigns focusing on parents, youth and other groups in order to address the false perception, especially among young people, that amphetamine-type stimulants are harmless. Law enforcement agencies have been improving their capacities to counter the use of the Internet to facilitate the illicit sale of amphetamine-type stimulants and their precursors. Considerable progress in preventing the diversion of precursors has been made by enhancing cooperation, both with the chemical industry and at the international level.

6. States should renew their efforts, at the national, regional and international levels, to implement the comprehensive measures covered in the Action Plan against Illicit Manufacture, Trafficking and Abuse of Amphetamine-type Stimulants and Their Precursors.<sup>4</sup> Special efforts should be made to counter the abuse and recreational use of amphetamine-type stimulants, especially by young people, and to disseminate information on the adverse health, social and economic consequences of such abuse.

### D. *Control of precursors*

7. Many States have introduced or revised legislation on control of precursors and established procedures for the monitoring of suspicious transactions involving precursors. Significant progress has been achieved by States and international organizations through collective initiatives to prevent diversion of precursors. However, further work is required to improve international cooperation and to refine and update existing mechanisms aimed at preventing diversion of chemical precursors and at confirming the legitimacy of end-users of precursors.

8. States should further international cooperation in the implementation of article 12, on control of precursors, of the United Nations Convention against

<sup>4</sup> General Assembly resolution S-20/4 A.

Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988<sup>5</sup> in close cooperation with the International Narcotics Control Board and the measures agreed upon at the twentieth special session of the General Assembly.

9. States should support international operations aimed at preventing diversion of chemical precursors used in the illicit manufacture of cocaine, heroin and amphetamine-type stimulants, by exchanging information with other States and conducting timely joint law enforcement operations, including the use of controlled deliveries.

10. States should establish or strengthen mechanisms for making the most effective use of existing systems and for ensuring strict control of chemical precursors used to manufacture illicit drugs.

#### *E. Judicial cooperation*

11. States have promoted multilateral, regional, subregional and bilateral cooperation among judicial and law enforcement authorities. They have also made progress in facilitating extradition, mutual legal assistance, transfer of proceedings, maritime cooperation, protection of witnesses and other forms of cooperation, in particular by updating and harmonizing legislation. Despite these efforts, difficulties still arise in negotiating or giving effect to extradition agreements, and obstacles contained in national legislation continue to limit international cooperation, in particular law enforcement initiatives targeting drug trafficking.

12. States should strengthen international cooperation among judicial and law enforcement authorities at all levels in order to prevent and combat illicit drug trafficking. They should bear in mind its linkages to terrorism and other national and transnational criminal activities, such as trafficking in persons, in particular women and children, money-laundering, corruption and trafficking in arms and in chemical precursors. In particular, they should share and promote best operational practices in order to interdict illicit drug trafficking, including by establishing and strengthening regional mechanisms, providing technical assistance and establishing effective methods for cooperation, in particular, in the areas of air, maritime and port control.

#### *F. Countering money-laundering*

13. States have made progress by adopting legislation that makes money-laundering a criminal and extraditable offence. An increased number of States have established financial intelligence units to support effective investigation and prosecution of money-laundering offences and have successfully frozen, seized or confiscated proceeds derived from drug trafficking.

14. Despite some positive results achieved by removing impediments to criminal investigations previously linked to bank secrecy, there is still a need for further efforts, both in this area and in reducing the risk of financial

<sup>5</sup> See *Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*, Vienna, 25 November-20 December 1988, vol. I (United Nations publication, Sales No. E.94.XI.5).

institutions being misused for money-laundering and in disrupting the movement of proceeds derived from criminal activities.

15. States should strengthen action, in particular international cooperation and technical assistance aimed at preventing and combating the laundering of proceeds, derived from drug trafficking and related criminal activities, with the support of the United Nations system, international institutions, such as the World Bank and regional development banks.

16. States should also develop and strengthen comprehensive international regimes to combat money-laundering and should improve information-sharing among financial institutions and agencies in charge of preventing and detecting the laundering of proceeds derived from illicit drug trafficking and related criminal activities and used, inter alia, for the financing of terrorism.

*G International cooperation in illicit crop eradication and alternative development*

17. States have made progress, some significantly, in reducing illicit crop cultivation, through a balanced programme of eradication, alternative development and law enforcement. Successes have required long-term investment in economic development backed by technical assistance. Monitoring and evaluation mechanisms have been established to measure the impact of such programmes. However, more efforts are needed to eliminate or significantly reduce illicit crop cultivation and to prevent such cultivation from re-emerging or from being relocated to other areas.

18. States should enhance support, including, where appropriate, the provision of new and additional financial resources, for alternative development and elimination programmes undertaken by countries affected by the illicit cultivation of cannabis, especially in Africa, of opium poppy and coca bush, in particular national programmes that seek to reduce social marginalization and promote sustainable economic development.

19. States should also enhance joint strategies, through international and regional cooperation, to strengthen, including by training and education, alternative development, eradication and interdiction capacity, with the aim of eliminating illicit crop cultivation.

20. States should encourage international cooperation, including, as appropriate, preventive alternative development, to prevent illicit crop cultivation from emerging in or from being relocated to other areas.

21. In accordance with the principle of shared responsibility, States are urged to provide greater access to their markets for products of alternative development programmes, which are necessary for the creation of employment and the eradication of poverty.

22. We recommend that adequate help be provided to Afghanistan in the framework of the comprehensive international strategy carried out, inter alia, under the auspices of the United Nations and through other multilateral forums, in support of the commitment of the Transitional Government of Afghanistan to eliminate the illicit cultivation of opium poppy, and in response to the unique situation of that country. This should help the provision of

alternative livelihoods and the fight against illicit trafficking of drugs and precursors within Afghanistan and in neighbouring States and countries along trafficking routes, including the strengthening of "security belts" in the region. Also, extensive efforts have to be made to reduce the demand for drugs globally in order to contribute to the sustainability of the elimination of illicit cultivation in Afghanistan. In this context, we affirm that our response to this unique situation will not detract from our commitment and resources devoted to the fight against drugs in other parts of the world.<sup>6</sup>

23. States should encourage interregional cooperation by exchanging best practices, taking into account the specific characteristics and environment of different regions.

<sup>6</sup> This paragraph was included at the request of several interested delegations, including Afghanistan.

## **B. Outcome of the round-table discussions of the ministerial segment**

8. Round-table discussions were held on 16 and 17 April on the following themes:

- (a) Challenges, new trends and patterns of the world drug problem;
- (b) Countering illicit drug supply;
- (c) Strengthening international cooperation in countering the world drug problem, based on the principle of shared responsibility;
- (d) Demand reduction and preventive policies.

9. On 17 April, the outcome of the round table on challenges, new trends and patterns of the world drug problem was presented by the Chairman of the round table, Petr Mares (Czech Republic). The outcome was as follows:

### **Outcome of the round table on challenges, new trends and patterns of the world drug problem**

#### *Trends*

1. Synthetic drugs present a new challenge and are regarded by many States as having the highest priority in drug control efforts. In particular, there has been a dramatic increase in the abuse of amphetamine-type stimulants. The principal threats are that amphetamine-type stimulants draw in young consumers, and offer large profit margins, to illicit drug producers and drug traffickers.

2. Although drug abuse is declining in some regions, it is increasing in others. If the availability of one particular drug declines, other drugs, including new drugs of abuse, are substituted for it.

3. In several regions, injecting drug abuse has caused a dramatic spread of blood-borne infections, ranging from the human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) to the hepatitis C virus.

4. There is a trend towards globalization of the drug problem, increasing its links with transnational organized crime. Links between terrorist groups and drug traffickers have also been noted; in particular, the proceeds of drug trafficking are being used in some cases to fund terrorist activities.

5. The use of the Internet to market controlled drugs and precursor chemicals is a worrying new trend.

*The way ahead*

6. A balanced approach is needed to address both the supply side and the demand side of the drug problem. It is important for national policies to include both measures to reduce illicit drug supply, such as drug law enforcement, and measures to reduce illicit drug demand, such as prevention, treatment and harm reduction. Research is considered to be important for building up the evidence base for drug control policy. New neuro-scientific research that is being conducted could offer benefits for treatment.

7. New ways to reach out to the youngest drug abusers and potential drug abusers are needed in order to reduce illicit demand for drugs, such as using the Internet to promote drug control and launching specially targeted public awareness campaigns.

8. In order to meet the challenge posed by injecting drug abuse and HIV/AIDS, Governments would benefit from working with civil society and non-governmental organizations.

9. States should share information about newly emerging drugs and good practices used in dealing with them, perhaps through the establishment of an Internet platform. Several States have suggested exploring the possibility of that being done through the United Nations Office on Drugs and Crime.

10. The legal basis for international cooperation aimed at countering money-laundering should be reinforced through the harmonization of national legislation and through the exchange of information and experts between countries.

10. On 17 April, the outcome of the round table on countering illicit drug supply was presented by the Chairman of the round table, Kembo Mohadi (Zimbabwe). The outcome was as follows:

**Outcome of the round table on countering illicit drug supply**

*Observations*

1. A condition for success in thoroughly reducing illicit crop cultivation is having law enforcement, interdiction and alternative development play complementary roles.

2. Political commitment is an essential ingredient for successful and sustainable interventions, as is the incorporation of alternative development into national economic planning, including such aspects as land titling.

3. All alternative development efforts require long-term planning; they must be planned and implemented bearing in mind the need for sustainability.

4. There is a need to differentiate the reasons for illicit crop cultivation: poverty is the main reason, while in some countries greed or entrepreneurial aspirations, including links with transnational organized crime, are contributing factors.
5. Large-scale illicit drug production has an adverse effect on internal political situations, acting as a source of internal conflict, to the detriment of order and the rule of law.
6. A key component of international efforts to prevent the illicit manufacture of synthetic and other drugs is the establishment of effective precursor control.
7. The rapidly increasing illicit manufacture of, trafficking in and abuse of amphetamine-type stimulants are matters of serious concern. The illicit manufacture of amphetamine-type stimulants is likely to expand further because such stimulants are relatively easy to manufacture and there is considerable demand for them.
8. Emerging trends suggest that smaller production sites, which are easier to conceal, are being established for the illicit manufacture of amphetamine-type stimulants. The illicit drug manufacture is being carried out predominantly by unqualified chemists, who produce illicit, dangerous and unpredictable drugs, with no quality control regarding their composition.
9. Backtracking investigations are extremely valuable in ensuring that the source of seized precursor chemicals is identified and that future diversions are prevented.
10. The illicit manufacture and consumption of amphetamine-type stimulants are mostly taking place within individual regions, however, Ecstasy from Western Europe is now being smuggled into other regions.

#### *Conclusions*

11. Effective alternative development must clearly focus on the alleviation of poverty, the creation of jobs, the prevention of environmental damage, reforestation, economic sustainability and the provision of appropriate market conditions to enable licit products to replace illicit crops.
12. The creation of incentives for private investment should be seen as an innovative approach to alternative development.
13. There is a need for international assistance to enable meaningful funding to be provided in support of alternative development programmes in Afghanistan, in order to address the increased opium poppy cultivation.
14. Member States are looking forward to the results of the planned global evaluation of alternative development. There continues to be a need for the international community to provide support in the form of technical assistance in the area of alternative development.
15. Strong support has been expressed for Project Prism, which was designed to prevent the diversion of essential chemicals used in the manufacture of amphetamine-type stimulants, and for Operation Purple and Operation Topaz.

which were designed to monitor international trade in the main precursor chemicals used in the illicit manufacture of cocaine and heroin respectively.

16. Backtracking investigations, following the seizure of precursor chemicals, should be vigorously pursued by law enforcement authorities in order to dismantle criminal organizations and identify the source of the precursor chemicals. Such investigations should include the use of standard analytical methods and systems for establishing common origins of and identifying new types of illicitly manufactured drugs.

17. Governments are encouraged to form a partnership with those involved in administrative control, law enforcement and the chemical industry in order to build trust and facilitate information exchange in their efforts to improve precursor control.

11. On 17 April, the outcome of the round table on strengthening international cooperation in countering the world drug problem, based on the principle of shared responsibility, was presented by the Chairman of the round table, Achmad Sujudi (Indonesia). The outcome was as follows:

**Outcome of the round table on strengthening international cooperation in countering the world drug problem, based on the principle of shared responsibility**

1. In 1998, the Member States represented at the twentieth special session of the General Assembly recognized that the world drug problem was a common and shared responsibility requiring an integrated and balanced approach in full conformity with the Charter of the United Nations and international law.<sup>7</sup> No single State should act alone without the assistance of the others. States are interlinked by the world drug problem.

2. The United Nations offers the best, if not the only, answer to the drug predicament. Therefore, it is essential to provide unwavering support to the United Nations Office on Drugs and Crime and the International Narcotics Control Board. Those two bodies have to increase their efforts by improving coordination and focusing their work bearing in mind their comparative advantages. It is also essential to improve the synergy of the Vienna-based international bodies and other entities for drug control, crime prevention and terrorism prevention, as well as the other international and regional bodies active in those fields.

3. Therefore, the United Nations should be maintaining its leading role in promoting multilateral, regional, subregional and bilateral cooperation among law enforcement agencies and judicial bodies. States must spare no effort to prevent and combat at all levels the spread of the drug scourge.

4. The practice of exchanging liaison officers in the field of law enforcement is commendable, as it serves to facilitate and strengthen cooperation even further. In addition, there is a need for a strong mechanism for sharing experience, intelligence and best practices so that new developments may be dealt with.

<sup>7</sup> General Assembly resolution S-20/2, annex, para. 2.

5. Promotion of sustainable and alternative development programmes is a prerequisite for achieving the long-term objective of countering the world drug problem. Social problems arising from urban criminality related to drug trafficking and abuse should be dealt with on the same basic level as any other serious type of crime.
6. Numerous views have emerged on the links of drug trafficking with other serious crimes, including money-laundering, terrorism, trafficking in human beings, arms trafficking, diversion of chemical precursors and other types of transnational organized crime. Experience has shown that such serious crimes have an impact not only on political and economic stability, but also on society. A comprehensive international approach must be taken. Relevant international instruments have been developed, but there is still an urgent need to better coordinate their implementation.
7. The draft United Nations convention against corruption is nearing completion and will be adopted at the end of 2003. A similar United Nations convention against money-laundering would complement the existing regime against the various forms of international organized crime, including drug trafficking and corruption.
8. Cross-border cooperation activities, communication and transportation equipment, support in upgrading technical skills and training in best practices in law enforcement are all essential in tackling the problems of States affected by the transit of illicit drugs.
9. There is a need for increased cooperation in tackling the problems of States most affected by the transit of illicit drugs. Further attention should be given to capacity-building and institution-building of judicial and law enforcement systems.
12. On 17 April, the outcome of the round table on demand reduction and preventive policies was presented by the Chairman of the round table, Costas Stefanis (Greece). The outcome was as follows:

#### **Outcome of the round table on demand reduction and preventive policies**

##### *Polydrug use*

1. In contemporary society, a constant change of patterns of drug abuse is witnessed, with the prevailing pattern being polydrug use. In the definition of polydrug use, licit and illicit drugs are included, such as tobacco, alcohol, cannabis, amphetamine-type stimulants and other illicit drugs.
2. Programmes and policies should address both the licit (alcohol and tobacco) and the illicit drugs in order to be effective. Hypocrisy and double standards in the way substances are dealt with may jeopardize prevention messages.
3. Also, it is necessary to have an integrated approach to treatment that includes all drugs, both licit and illicit, since there is a strong indication that they share a basic common mode of action on the brain. There are also many common elements in treatment for all those substances. Polydrug use is not

only a problem but also an opportunity to integrate services and respond effectively to dependence.

*The role of civil society, school, sports and public information campaigns in demand reduction*

4. Public health and health promotion approaches are important in the development of prevention strategies. Prevention should start with the basis of all societies: the family. Parents should talk to their children and they should be provided with the right skills to make such interaction effective.
5. Prevention should continue in schools with teachers and peers. Drug abuse education should be incorporated into curricula in the context of health promotion messages.
6. In order to be effective it is important to work at the local level. Prevention work should be carried out at the community level and municipalities should be given the resources to implement the relevant activities.
7. Public awareness campaigns are important but should support prevention intervention and should not be carried out in isolation. Prevention campaigns should inspire rather than scare. The media and role models in the media should take on more responsibilities in the dissemination of information on preventive behaviour.
8. Specific interventions for groups at risk are important. The timely identification of high-risk populations is important for early intervention to prevent progression in abuse and dependence.

*Enhancing programmes for the treatment and rehabilitation of drug users and for the prevention and treatment of related diseases, in particular HIV/AIDS*

9. Treatment, rehabilitation and risk reduction to prevent the transmission of HIV and other sexually transmitted diseases should be based on a pragmatic approach aimed at preventing both drug abuse and the associated spread of infectious diseases. Substitution treatment for injecting drug abusers has proved to be quite effective in this field.
10. There is an urgent need to expand treatment to include all those in need by, among other measures, integrating treatment into the general health system. There is a need to develop comprehensive educational curricula for medical and allied professionals.

*General issues*

11. Overall it is necessary to have an integrated approach that takes into account individual needs and the sociocultural environment.
12. Progress in neuroscience and in social and behavioural sciences provides new tools for applying effective intervention in the field of demand reduction.
13. The scientific evaluation of interventions needs to be promoted further to allow for evidence-based interventions. The United Nations can facilitate the process.

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14. International cooperation is necessary to reduce supply through sustainable development in close association with efforts to eradicate illicit crops and poverty.

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